# SENATE—*Thursday, June 24, 1982*

*(Legislative day of Tuesday, June 8, 1982)*

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

Loving, patient, Father in Heaven, our Nation is in deep trouble. Responsibility for the remedy rests with the present Government. If those who are now in Congress and the White House do not get it together, there is certainly no alternative.

Eternal God, our Founding Fathers laid their lives, their fortunes, and their sacred honor on the line at tremendous risk. And many of them paid the ultimate price for their commitment, but they gave us the greatest Republic in history. Surely, present leadership can do no less.

Grant Heavenly Father, to the President and the Congress, the will, at whatever cost, to respond heroically to the present crisis. Give them courage, wisdom, and strength commensurate to the task and free them from fear of the consequences. In the name of Him who made the ultimate sacrifice for us all. Amen.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

## THE JOURNAL

Mr. GARN. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there are special orders this morning, are there not, for four Senators to be recognized?

The PRESIDENT pro tempore. The majority leader is correct.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that after the execution of the special orders there be a brief period for the transaction of routine morning business to extend not longer than 30 minutes in length in which Senators may speak for not more than 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

URGENT SUPPLEMENTAL APPROPRIATIONS

Mr. BAKER. Mr. President, may I say for the benefit of Senators that it is my expectation that today we will have to deal either with a veto message on the urgent supplemental appropriations bill transmitted this morning from the President of the United States or, in the event the veto is sustained in the House of Representatives, certainly we will have to deal with another supplemental appropriations bill, if and when it is received from the House of Representatives.

I believe there is an order already entered authorizing the leadership to proceed to the consideration of such a supplemental if and when it is received; is that not the case?

The PRESIDENT pro tempore. The majority leader is correct.

Mr. BAKER. I thank the Chair.

Now, Mr. President, what we have then is essentially a requirement that we await further developments. I have talked to the President this morning. It is my understanding that he has talked to the distinguished Senator from Utah (Mr. GARN) and the distinguished Senator from Louisiana (Mr. LUGAR) and others indicating his intention to veto the bill. I would speculate that it has been vetoed by now and the message will shortly reach the House of Representatives.

So, Mr. President, the question is, What can the Senate do, how shall it invest its time between now and the time it must act either on the veto message or on another supplemental?

TOBACCO BILL

I have indicated to the distinguished Senator from North Carolina (Mr. HELMS), the Senator from Kentucky (Mr. HUDDLESTON), and the distinguished Senator from Missouri (Mr. EAGLETON) that, for various reasons, which I will not elaborate at this time, if the Agriculture Committee were to report a tobacco bill to comply with the mandate of the Congress for a noncost program or if it could be reached in some other practical way, I should like to go to that measure today and debate it until we have another supplemental appropriations bill or a veto message, as the case may be.

Those matters are still maturing, and this statement is only for the purpose of advising Senators that that may be the course of action the leadership will choose to follow as the day wears on.

There are other matters that might be dealt with, Mr. President. For instance, I had hoped that we could go to the military construction bill. I am told that we cannot; certain Senators involved with that measure will not be available to manage it today. I had hoped that we might go to the bankruptcy reform bill today, and that is still a possibility, but I am advised that it would be necessary to move the consideration of that measure. I will explore that still further. The leadership will attempt to build a schedule of worthwhile legislative activity for the day while we wait on developments at the White House and from the House of Representatives in respect to the urgent supplemental.

## ORDER TO CONVENE AT 9:30 A.M. FRIDAY AND 11 A.M. TUESDAY, JUNE 29, 1982

Mr. BAKER. While I have an opportunity, Mr. President, I ask unanimous consent that when the Senate completes its business today, it either recess or adjourn, depending on the further actions of the Senate, until 9:30 a.m. on tomorrow—by the way, that would be a pro forma session—and at the end of that period it stand in recess or adjournment until 11 a.m. on Tuesday next.

The PRESIDING OFFICER (Mr. WARNER). Without objection, it is so ordered.

## PROCEDURE ON URGENT SUPPLEMENTAL APPROPRIATIONS

Mr. BUMPERS. Mr. President, while the Senator is meditating, will he yield for a question?

Mr. BAKER. Yes. I yield with no danger that it would interrupt any meditation.

Mr. BUMPERS. I get a lot of my information from the paper. The indication this morning is that the House, as soon as the President vetoes the urgent supplemental, will proceed and attempt to override that veto. I was wondering if the leader has had any communication with the House leadership as to their intention, if they fail to override, to then send the bill that we started to try to consider yesterday afternoon back over to us?

Mr. BAKER. Mr. President, I have not communicated or attempted to communicate with the House leader-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

ship this morning. I did talk with the Speaker last evening.

What I am about to say is maybe not the freshest information; it may not even be up to date, but it is my impression that if the veto is sustained in the House, and it very well may be, the House then would originate a new supplemental which might resemble the bill the House sent us originally, or perhaps it might resemble the conference report that was adopted, I suspect, without the housing provision.

However, that has not yet fully been determined, and as soon as the House acts I will try to convey that information to the Senate.

## ORDER FOR URGENT SUPPLEMENTAL TO BE RETURNED TO THE CALENDAR

Mr. BAKER. Mr. President, speaking of that, on yesterday we went to the consideration of the debt limit bill which, thankfully, was approved by the Senate last evening. That leaves dangling the supplemental as we have it. Pursuant to the authority granted the majority leader, I now ask that the supplemental (H.R. 6645) that was pending at that time be returned to the calendar where it will reside until and unless it is called up without any change in its status.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I regret that I cannot give the Senate a more detailed schedule, but I am sure Senators understand that we are sort of at the mercy of the House right now, awaiting further developments.

Until I hear from the chairman of the Agriculture Committee that he is or is not ready to proceed on that measure—as well as the Senator from Missouri—and unless and until we hear that we can clear something, such as the bankruptcy reform bill or some other measure, I simply cannot make any more precise announcement.

## COMMENDATION TO ARCHIE TINCH AND QUENTIN MONTGOMERY

Mr. BAKER. Mr. President, in just a few years the Senate will mark its bicentennial anniversary. During its almost two centuries of existence, the Senate has developed many traditions in which it takes great pride. One of the most valued is the loyalty of service to the institution demonstrated by so many Members and staff who have worked in these Halls throughout history.

Today, I wish to commend two such individuals, each of whose careers has spanned 30 years of dedicated service to the Senate.

Archie Tinch and Quentin Montgomery are employees of the Senate Library. This is the legislative and reference library established by the Senate in 1871, which operates under the supervision of the Secretary of the Senate. These men represent the fine service that we have come to depend upon from the library as it performs a myriad of tasks for the Senate.

Archie Tinch began his service in November 1951 as chief of the file stacks for the library. A few years later he was promoted to be a library messenger, and in 1958 he succeeded his superior and mentor, Herman Scott, as chief messenger of the library. In that capacity, Mr. Tinch was responsible for both the physical organization and maintenance of the books and other materials acquired by the library and for the services provided by the messenger staff. In 1974 he was again promoted to senior reference assistant, and in 1978 he assumed his present responsibilities as technical services specialist for the library.

Quentin Montgomery began his career in the Senate as a messenger for the Senate Stationery Room in February 1952. Nine years later he transferred to the messenger staff of the Senate Library. In 1974 Mr. Montgomery was promoted to chief messenger in the library to succeed Mr. Tinch, and he continues in these responsibilities at the present time. It is particularly noteworthy that Mr. Montgomery's family represents four generations of service to the Senate, dating back to the beginning of this century; Quentin Montgomery's father and grandfather were employees of the Senate, while his son Dale is currently on the staff of the stationery room.

Mr. President, it gives me great pleasure to pay tribute to both of these gentlemen on behalf of the entire Senate and to express our gratitude for their 30 years of outstanding service. Their example further enriches the traditions of fidelity and loyalty to this institution, and I am honored to join with their fellow employees and with their families and friends in saluting them on this happy occasion.

## THE UNITED STATES AND CHINA: REPORT BY THE MAJORITY LEADER

Mr. BAKER. Mr. President, from May 30 through June 10, 1982, I traveled to the People's Republic of China to meet and discuss matters of mutual concern with the Chinese leadership. I ask unanimous consent that the report of my findings be printed as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I am prepared now to yield my remaining time to any Senator seeking recognition. Before I do so, however, I am told that there is a matter which has been cleared by the distinguished acting minority leader.

## NATIONAL ENERGY EMERGENCY PREPAREDNESS ACT OF 1982

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2332.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives.

*Resolved*, That the bill from the Senate (S. 2332) entitled "An Act to amend the Energy Policy and Conservation Act to extend certain authorities relating to the International Energy Program, to provide for the Nation's energy emergency preparedness, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Energy Emergency Preparedness Act of 1982".

SEC. 2. EXTENSION OF CERTAIN INTERNATIONAL ENERGY PROGRAM AUTHORITIES.

Subsection (j) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking out "June 1, 1982" and inserting in lieu thereof "June 30, 1985".

SEC. 3. STRATEGIC PETROLEUM RESERVE AMENDMENTS.

(a) REQUIRED RATE FOR FILLING RESERVE.—

(1) IN GENERAL.—Subsection (c) of section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240(c)) is amended to read as follows:

"(c)(1) The President shall immediately undertake, and thereafter continue (subject to paragraph (2)), petroleum product acquisition, transportation, and injection activities at a level sufficient to assure that the quantity of petroleum products in the Strategic Petroleum Reserve in permanent of interim storage facilities will be increased at an average annual rate of at least 200,000 barrels per day. In addition, the President shall seek to undertake such activities at a level sufficient to assure that such quantities in the Reserve are increased at an average annual rate of at least 300,000 barrels per day during periods in which the President considers it fiscally prudent to do so.

"(2) The requirements in paragraph (1) shall cease to apply when the quantity of petroleum products stored within the Strategic Petroleum Reserve is at least 500,000,000 barrels; except that, until the quantity of petroleum products stored in the Reserve is at least 750,000,000 barrels, the President shall seek to continue petroleum product acquisition, transportation, and injection activities at the appropriate level prescribed under paragraph (1).".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect July 1, 1982.

(b) INTERIM STORAGE.—.

(1) AUTHORITY FOR IMPLEMENTATION.—Section 159(f) of the Energy Policy and Conservation Act (42 U.S.C. 6239(f) is amended by striking out "and" at the end of paragraph (3), by striking out the comma at the end of paragraph (4) and inserting "; and" in lieu

thereof, and by inserting after paragraph (4) the following new paragraph:

"(5) the storage of petroleum products in interim storage facilities,".

(2) USE OF SPR PETROLEUM ACCOUNT; CONFORMING AMENDMENTS.—(A) Section 167 of the Energy Policy and Conservation Act (95 Stat. 619) is amended by adding at the end thereof the following:

"(e)(1) Except as provided in paragraph (2), nothing in this part shall be construed—

"(A) to limit the Account from being used to meet expenses relating to interim facilities for the storage of petroleum products for the Strategic Petroleum Reserve; and

"(B) to require any amendment to the Strategic Petroleum Reserve Plan prior to the storage of petroleum products in interim storage facilities.

"(2) In any fiscal year, amounts in the Account may not be obligated for expenses relating to interim storage facilities in excess of 10 percent of the total amounts in the Account obligated in such fiscal year. If the amount obligated in any fiscal year for interim storage expenses is less than the amount of the 10-percent limit under the preceding sentence for that fiscal year, then the amount of the 10-percent limit applicable in the following fiscal year shall be increased by the amount by which the limit exceeded the amount obligated for such expenses.

"(f)(1) No action relating to the storage of petroleum products in an existing facility for interim storage in the Reserve shall be deemed to be 'a major Federal action significantly affecting the quality of the human environment' within the meaning of that term as it is used in section 102(2)(C) of the National Environmental Policy Act of 1969.

"(2) For purposes of this subsection, a facility shall be considered to be an existing facility if it—

"(i) is in existence on July 1, 1982;

"(ii) was constructed in a manner appropriate for the purpose of storing petroleum products; and

"(iii) is not modified after July 1, 1982, in any manner which substantially increases the storage capacity of the facility. Any modification of such facility may not include replacement or reconstruction.

"(g) Petroleum products stored in interim storage facilities pursuant to this part shall be considered to be in storage in the Reserve.".

(B) Section 160(e)(4) of such Act (42 U.S.C. 6240(e)(4)) is amended by striking out "crude oil" and inserting in lieu thereof "petroleum product".

SEC. 4. CONTINUATION OF PETROLEUM PRODUCT INFORMATION COLLECTION.

(a) IN GENERAL.—Part A of title V of the Energy Policy and Conservation Act (42 U.S.C. 6381 and following) is amended by adding at the end thereof the following new section:

"PETROLEUM PRODUCT INFORMATION

"SEC. 507. The President or his delegate shall, pursuant to authority otherwise available to the President or his delegate under any other provision of law, collect information on the pricing, supply, and distribution of petroleum products by product catagory at the wholesale and retail levels, on a State-by-State basis.".

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by inserting the following new item after the item relating to section 506:

"Sec. 507. Petroleum products information.".

SEC. 5. REPORTS TO CONGRESS ON PETROLEUM SUPPLY DISRUPTIONS.

(a) DESCRIPTION OF AVAILABLE LEGAL AUTHORITIES AND IMPLEMENTATION.—The President shall prepare and submit to the Congress no later than October 30, 1982, a report containing—

(1) a memorandum of law describing the nature and extent of the authorities available to the President under existing law to respond to a severe energy supply interruption or other substantial reduction in the amount of petroleum products available to the United States, and

(2) a description of the various options the President may use to implement the authorities described under paragraph (1) to respond to such a reduction, including a description of the likely sequence in which such options would be taken.

(b) IMPACT ANALYSIS.—The Secretary of Energy shall analyze the impact on the domestic economy and on consumers in the United States of reliance on market allocation and pricing during any substantial reduction in the amount of petroleum products available to the United States. In making such analysis, the Secretary of Energy may consult with the Secretary of the Treasury, the Secretary of Agriculture, the Director of the Office of Management and Budget, and the heads of other appropriate Federal agencies. Such analysis shall—

(A) examine the equity and efficiency of such reliance,

(B) distinguish between the impacts of such reliance on various categories of business (including small business) and on households of different income levels,

(C) specify the nature and administration of monetary and fiscal policies that would be followed including emergency tax cuts, emergency block grants, and emergency supplements to income maintenance programs, and

(D) describe the likely impact that State and local laws and regulations (including emergency authorities) affecting the distribution of petroleum products would have on the distribution of petroleum products.

Such analysis shall include projections of the effect of the petroleum supply reduction on the price of motor gasoline, home heating oil, and diesel fuel, and on Federal tax revenues, Federal royalty receipts, and State and local tax revenues.

(2) Within one year after the date of the enactment of this Act, the Secretary of Energy shall submit a report to the Congress and the President containing the analysis required by this subsection along with such recommendations as the Secretary of Energy deems appropriate.

(c) STRATEGIC PETROLEUM RESERVE REPORT.—The President shall prepare and transmit to the Congress no later than October 30, 1982, a report containing—

(1) a description of the foreseeable situations (including selective and general embargoes, sabotage, war, act of God, or accident) which could result in a severe energy supply interruption or obligations of the United States arising under the international energy program necessitating distributions from the Strategic Petroleum Reserve, and

(2) a description of the strategy or alternative strategies of distribution which could reasonably be used to respond to each situation described under paragraph (1), together with the theory and justification underlying each such strategy

The description of each strategy under paragraph (2) shall include an explanation of the methods which could be used to determine the price and distribution of crude oil from the Reserve in any such distribution, and an explanation of the disposition of revenues arising from sales of any such crude oil under the strategy.

(d) STRATEGIC ALCOHOL FUEL RESERVE REPORT.—The Secretary of Energy shall, in consultation with the Secretary of Agriculture, prepare and transmit to the Congress no later than December 31, 1982, a comprehensive study of the potential for establishing a Strategic Alcohol Fuel Reserve. Such study shall contain—

(1) an assessment of the priority end uses which could be satisfied by use of alcohol in lieu of petroleum products;

(2) an evaluation of the relative economic benefits of establishing a Strategic Alcohol Fuel Reserve to supplement or supplant a portion of the Strategic Petroleum Reserve including projections of relative costs, impacts on balance of trade, and domestic employment;

(3) an analysis of the projected impact on the cost and operation of agricultural programs administered by the federal government, including but not limited to estimated impacts on prices of domestic agricultural commodities and the cost of storage thereof; and

(4) assessments of alternative storage and distribution options.

(e) MEANING OF TERMS.—As used in this section, the terms "international energy program", "petroleum product", "Reserve", "severe energy supply interruption", and "Strategic Petroleum Reserve" have the meanings given such terms in sections 3 and 152 of the Energy Policy and Conservation Act (42 U.S.C. 6202 and 6232).

Amend the title so as to read: "An Act to amend the Energy Policy and Conservation Act to extend certain authorities relating to the international energy program, and for other purposes.".

Mr. BAKER. Mr. President, I move that the Senate disagree to the House amendments and request a conference with the House on the disagreeing votes thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Messrs. MCCLURE, WEICKER, DOMENICI, WALLOP, WARNER, JACKSON, JOHNSTON, FORD, and METZENBAUM conferees on the part of the Senate.

## RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDING OFFICER. The acting minority leader is recognized.

Mr. PROXMIRE. Mr. President, I will take a minute or two and then yield to the distinguished Senator from Mississippi.

## HOW A NUCLEAR WAR COULD BEGIN AND WHAT WE CAN DO ABOUT IT

Mr. PROXMIRE. Mr. President, this morning's New York Times carries a fascinating article by David Shribman on how a nuclear war could begin and what we can do about it. It points out

that terrible wars in the past such as World War I, can begin with a relatively obscure event and move in a matter of minutes to the most catastrophic destruction in human history. As Jerome Wiesner says:

You can think of 100 ways in which nuclear war might start, and it could still start in a thoroughly unpredictable way.

Mr. President, I call attention to this timely article because vital as any nuclear arms limitation agreement on the part of the Soviet Union and the United States is to preventing nuclear war, even if such an agreement should succeed brilliantly, the world might still fall into the terrible abyss of an accidental nuclear catastrophe. The Shribman article analyzes this problem and reports some of the proposals to try to reduce the terrible possibility.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 24, 1982]

EXPERTS FEAR THAT UNPREDICTABLE CHAIN OF EVENTS COULD BRING NUCLEAR WAR

(By David Shribman)

WASHINGTON, JUNE 23.—Time and again the people who are engaged in the grim exercise of speculating how nuclear war might begin allude to the summer of 1914, when the nations of Europe slipped into a world war after a relatively minor incident.

That incident, the shooting of the Archduke Francis Ferdinand of Austria-Hungary in the Bosnian city of Sarajevo, set in motion a series of events that the world's most powerful leaders could not stop, and it has suddenly emerged at the heart of the discussion over the possibility of nuclear war in this age. Military planners, Government officials and foreign policy scholars stress that they do not believe a nuclear war is likely, but many add that they fear that one could grow out of the countless unpredictable events that occur each year.

"You can think of a hundred ways in which nuclear war might start, and it could still start in a thoroughly unpredictable way," said Jerome B. Wiesner, a former Presidential science adviser and an architect of America's air defense system.

DEBATE BECOMING PUBLIC

Until recently such discussion was confined to planners in the Pentagon and the State Department and to a handful of experts in universities and policy institutes. But as the movement for a freeze on nuclear arms has gathered momentum, speculation about the events that might set off a nuclear war has been increasingly conducted publicly.

The question is made even more timely by the 10-week war over the Falkland Islands, in which one party, Britain, possessed nuclear weapons, and by the United Nations disarmament session now under way.

Although both the number of nations with nuclear weapons and the nuclear arsenals have grown since the dawning of the atomic age, the scenarios for nuclear war have changed remarkably little. Planners, strategists and scholars still agree that a nuclear war is most likely to begin in Europe, and even those who speculate that the impetus for war may occur elsewhere believe that the conflict will escalate and spill over to Europe before nuclear weapons are used.

"Europe is still the tinderbox," said Jeremy J. Stone, director of the Federation of American Scientists and a respected figure among strategic thinkers. "That's where all the weapons are, and that's where the confrontation is."

MIGHT START WITH UPRISING

One common scenario begins with a bloody uprising in the Soviet bloc, perhaps in East Germany. Such an uprising, many specialists believe, might lead West German sympathizers to try to aid the uprising.

If, according to this scenario, troops from the North Atlantic Treaty Organization became involved and if either side found itself at a disadvantage, the temptation to use nuclear arms might be irresistible.

"The number of weapons, the variety and the deployment are such that what begins as a conventional conflict is extremely likely to change over into a nuclear conflict," said George B. Kistiakowski, the former head of the explosives division of the Los Alamos Laboratory and science adviser to President Eisenhower. "There is ample reason to worry."

Pentagon officials also speak of the possibility that the Soviet Union might launch a sudden, unprovoked attack if they were to conclude that one planned in great stealth might disarm the United States of its retaliatory force.

FOCUS ON MIDDLE EAST

"There's no way intellectually to say which potential risk of nuclear attack is most likely," Fred C. Ikle, Under Secretary of Defense for Policy, said in an interview.

In recent years, however, increased attention has been focused on the Middle East, which high tensions and a wealth of oil resources make a natural setting for conflict. These scenarios almost always involve Israel, a long-standing American ally and a potential nuclear power; Saudi Arabia, which holds great oil reserves, and Iran, a traditional intersection between East and West.

"Because we do not have comparable conventional capacity in the area, the temptation might be strong to compensate by relying on tactical nuclear weapons," said Marshall D. Shulman, director of the Russian Institute at Columbia University and a Carter Administration specialist in Soviet affairs. "This would breach the firebreak between conventional and nuclear weapons."

Such escalation is at the center of many specialists' worries.

"The concern that seems most to be watched for is the risk of escalation from a local conflict, and particularly if the separation between nuclear and conventional weapons becomes blurred," said Mr. Shulman. "If there is an initial conflict and both sides get involved because their interests are involved, there are neither technical nor political checkpoints in the passage from a conventional military engagement up through battlefield nuclears."

The Reagan Administration's military program is designed in part to build up American ability to engage in conventional warfare and thus to avoid the possibility that conventional forces will be overwhelmed and that military leaders will have no alternative but to turn to the nuclear arsenal.

"We cannot in the short term fix the inadequate sustainability of our forces," Mr. Ikle said. "But we are able to move toward strategic planning that envisages, if needed, a sustained conventional defense."

Some American strategic thinkers believe that Soviet nuclear doctrine depends on beginning a war with a conventional phase. In a monograph published last year, Joseph D. Douglass Jr., a specialist in military strategy, and Amoretta M. Hoeber, now Deputy Assistant Secretary of the Army for Research and Development, maintain that the Warsaw Pact has "considerable reason to prefer transitioning to the use of nuclear weapons during, rather than at the start of, the war."

Other analysts focus on the possibility that a minor power would drag the superpowers into a nuclear war, perhaps in the Middle East. These analysts believe that a "catalytic war" could occur if, for instance, Israel was about to be overrun and threatened to use nuclear weapons against an Arab nation or a number of Arab nations. Then, according to a scenerio offered by Mr. Stone, the head of the scientists' federation, the Soviet Union might threaten to use nuclear weapons against Israel or might make such weapons available to their Arab proxies.

In recent years, moreover, there has been growing concern that with increasingly advanced and accurate missile delivery systems, each side can destroy a very high percentage of the other side's land-based missiles with one strike. "By using a very small percentage of one side's force, there is a high confidence that it can destroy almost all of the other side's land-based missile force," one expert said. "If it looked as if the other side might be thinking of using its nuclear forces, there's incentive to use them first. In a deep political crisis, the existence of these weapons alone would contribute to an intensification of the crisis."

While many of these foreign policy and military experts warn that the greatest danger is from an accident that could grow into a war, there is less agreement over whether a nuclear war is likely to be caused by a technological accident or by miscalculation.

At the heart of nuclear weapons safeguards is the "permissive action link," which provides that a code or a combination of keys, and not just the action of a single individual, is required to launch an attack. "We bend every effort, and hopefully the Soviets bend every effort, to make a technological accident as unlikely as possible," Mr. Ikle said. "For 30 years nuclear weapons have been around, and there never has been an accidental major missile firing. That's an indication of the care that every country that now has nuclear weapons applies to this issue."

Adm. Noel Gayler, director of the National Security Agency in the Nixon Administration and a former commander of American forces in the Pacific added, "I think the safeguards are very good on our side, and I hope they're good on their side."

Many analysts still fear that a nuclear war could begin by miscalculation, however. A number of members of Congress—including Senators Henry M. Jackson, Democrat of Washington; Gary Hart, Democrat of Colorado, and Sam Nunn, Democrat of Georgia—have expressed fears the failure of a computer chip, for instance, might cause one side to believe it is being attacked and might prompt it to false information has been fed into North American Air Defense computers three times, and unclear warning systems have been set off, according to a

specialist, "probably dozens of times over the last 10 years."

Senator Jackson has called for the establishment of a permanent joint American-Soviet communications and information center to supplement the current communications system between the White House and the Kremlin, a teletype system that has become known as the "hotline." This new system would periit senior officiahs of the superpowers to confer quickly and would, Mr. Jackskn said, "provide what could be a literally hife-saving arrangement for instant information exchange and consultation when incidents occurred that could be misinterpreted as harbingers of an imminent nuclear assault by one power against the other."

Many foreign policy specialists believe that the growing tension between the two superpowers adds to the danger that such a miscalculation or a series of incidents or military engagements might lead to nuclear war.

"If something is not done soon to break this degenerative trend," former Secretary of State Edmund S. Muskie said at a meeting of the Council on Foreign Relations this spring, "we and the Soviets may have a serious confrontation not unlike the Cuban missile crisis—but in which the Soviets will vow 'not another humiliation' and our leaders will vow 'no confirmation of a changed balance of power,' with no on-going high-level negotiations, no communication process to fall back on and no political basis for any compromise."

Most analysts believe that whatever the circumstances, the decision to use nuclear weapons would not be taken hastily, even if one of the nations were to conclude that it had to choose between beginning a nuclear war or accepting a collapse of its world position.

"I think that Governments on both sides have thought about this enough so there will be deep consideration," said Mr. Wiesner, the former president of the Massachusetts Institute of Technology. "The people in the front lines today are the women and the children. Every man goes to war this time with his family strapped to his back."

## TOTALITARIANISM, TECHNOLOGY, AND UNWANTED MINORITIES

Mr. PROXMIRE. Mr. President, in 1948 the Genocide Convention was born. The convention came into being as a result of man's inhumanity toward man reaching new depths of depravity.

The 1930's and early 1940's saw the union of totalitarian ideology and technological and scientific development. This unholy union resulted in death and destruction for millions in Soviet Russia and Nazi Germany. The powerful grip of the totalitarian state controlled means of mass intimidation and destruction unknown in earlier days, such as the machinegun, armored vehicles, deadly gas, and perverted medical science.

In the 1930's, Stalin ordered the kulak class of Russian peasants liquidated, during his program of agricultural collectivization. Millions were sent to forced labor camps. As an indirect result of Stalin's war for collectivization, the land lay devastated and famine followed. Over one-half the horses, 45 percent of the cattle, and two-thirds of Russia's sheep and goats were slaughtered. Soviet livestock production has not recovered. The consequential human suffering and deprivation defies comprehension.

As a result of World War II developments, the Soviet dictator uprooted the entire Kalmuck nation, exiling it for over a decade from its home, until the Kalmucks were greatly reduced in number.

Like the Soviet Union, Nazi Germany's totalitarian organization of the technology of destruction meant violence and death for unwanted minorities. The horrible consequences of the National Socialist application of technology and science to resolution of political and social issues are still fresh in the world's contemplation of the degradation, starvation, gas chambers, and crematories of Germany's concentration camps.

The Genocide Convention offers effective protection against repetition of such horrors. The convention makes genocide an international punishable crime. Article II defines it, among other things, as killing members of a national, ethnical, racial, or religious group, causing serious bodily or mental harm to members of the group, or deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, with intent to destroy, in whole or in part, the group as such. Article IV provides for the punishment of persons committing genocide. These provisions are aimed at preventing crimes like those of Stalin and Hitler.

We must act for ratification of the Genocide Convention to ban the repetition of the inhumane acts characterizing the Nazi and Stalinist states. Only then can our great Nation join in truly condemning and preventing the crime of genocide.

Mr. PROXMIRE. Mr. President, I yield the remainder of my time to the distinguished Senator from Mississippi.

Mr. STENNIS. I thank the Senator from Wisconsin.

How much time does the Senator have remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 8 minutes and 4 seconds remaining.

Mr. STENNIS. I thank the Chair. I will not take that much time.

## INDUSTRIAL DEVELOPMENT BONDS

Mr. STENNIS. Mr. President, my remarks relate to the proposal of the Department of Treasury which would restrict the use of industrial revenue bonds in such a manner that it would virtually destroy the advantages of the industrial revenue bond program as a tool for industrial development and growth.

Mr. President, the emphasis there, all the way through, is on the word "industrial."

In a memorandum from the Department of the Treasury dated January 28, it was recommended that there be a $20 million capital expenditure limit on the use of industrial revenue bonds for any single company on a worldwide basis. Additionally, the Department of the Treasury recommended that no company should be allowed to utilize tax-exempt industrial revenue bonds and accelerated cost-recovery systems in the same project.

Let me point out, Mr. President, that my State of Mississippi was the pioneer in establishing a tax-exempt industrial revenue bond program in order to attract corporate investments and increase new job opportunities in our State. The program began in 1936, under the leadership of the then Governor, the late Hugh White, a highly successful businessman. The program has been a huge success in Mississippi, and it has been handled with the utmost of integrity. Mississippi has reaped huge dividends as a result of utilizing this financial inducement to attract industrial development; and, as a matter of permanent policy, Mississippi has prohibited the use of industrial revenue bonds for purposes other than manufacturing and manufacturing-related projects.

I am satisfied that the Department of the Treasury proposals will put an unwarranted restriction on the use of these industrial bonds, even though they are issued strictly for industrial purposes.

I greatly fear that either of the proposals by the Department of the Treasury, and certainly both combined, would be very damaging to Mississippi and others similarly situated and would severely injure our economic recovery efforts. Imposing a capital expenditure limit on the use of industrial revenue bonds would severely retard economic development in Mississippi as well as any other State that utilizes this financial tool.

Furthermore, the approach of the Department of the Treasury rests on the philosophy that "big is bad." The real issue with regard to industrial revenue bonds is not the size of the corporation which utilizes this financial program for growth and expansion; but, rather, the issue is the misuse of this program for projects which are not manufacturing and manufacturing related. The Treasury Department proposal does not address the real abuses of this program by eliminating commercial shopping centers, fast-food chains, country clubs, and recreational facilities that qualify for this

type of tax-exempt financing in some States. It is my very strong conviction that this is the area where the abuses need to be curbed, not by penalizing those corporate citizens who are most capable of providing new job opportunities for the unemployed and the underemployed of this Nation—particularly at this time.

Here is a program that has stood the test of 46 years, of regularly applied use, under strict laws that do not let it get out of bounds and do not let it be abused, but has restricted it right down the line. Under the program a municipality, county, or other political subdivision, through the process of bonding themselves, can raise the necessary money to induce a legitimate business to come in, with funds provided for the building and the machinery, if necessary, that will set them up.

This process is approved by the courts. I am not particularly blaming the Treasury Department for trying to eliminate the abuses. But, Mr. President, let us not kill the goose that lays the golden egg for these so-called little enterprises, small industries, small undertakings which turn out the very highest quality goods, almost without exception, and which are offering these relatively few jobs, but essential jobs, to the local people because of these added encouraging conditions.

A study has been made in the State of Mississippi that has clearly established that the use of industrial revenue bonds does not result in a loss to the Federal Treasury but rather "pay their own way." In the past 5 years, in the State of Mississippi, the tax-exempt status of industrial revenue bonds cost the Federal Treasury approximately $29 million. However, employees' payroll taxes alone from these same companies which were financed by industrial revenue bonds accounted for $32 million in revenues to the Federal Treasury. This confirms my belief that, when industrial revenue bonds are used exclusively for the creation or expansion of manufacturing operations, they "pay their own way," or very near thereto. In all cases, on the average and in totality, they pay their own way.

To make clear, the counties and municipalities of Mississippi rely on the industrial revenue bond program very greatly. Such bonds are presently issued in 48 States. I understand that the Senate Committee on Finance and the House Committee on Ways and Means are both considering the recommendations of the Department of the Treasury which I have mentioned. I believe that the Treasury approach is both unsound and unwise under the present special conditions. As a realistic and viable alternative to it, I urge that there be considered the approach of restricting industrial revenue bonds to manufacturing and manufacturing-related projects.

Describe the boundary lines just like on a basketball court or football field where the boundary lines are prescribed and play beyond those lines is not permitted.

It would be a severe blow to the economy of Mississippi or any other similarly situated area if the industrial revenue bond program were eliminated or unduly restricted, and I hope that this will not be permitted to happen.

Mr. President, this is a life and death struggle. You can imagine the enormity of the weight of the Federal Treasury coming into a hearing with their ponderous books, figures, and conclusions. It may very well be that they are able to show a loss to the Treasury from the abuses of this idea and concept. However, this is no reason for killing the goose that lays the golden eggs.

Mr. President, I feel that my time is over. I thank the Chair and I thank the Senator from Wisconsin very much for affording me this time.

## RECOGNITION OF SENATOR COHEN

The PRESIDING OFFICER. Under the previous order, the Senator from Maine will be recognized for a period not to exceed 15 minutes.

Mr. COHEN. Thank you, Mr. President.

## S. 2674—SOCIAL SECURITY DISABILITY AMENDMENTS OF 1982

Mr. COHEN. Mr. President, I am pleased to have Senator LEVIN join me in introducing comprehensive legislation to reform the Social Security Administration's procedures for determining the continued eligibility of individuals who receive disability benefits.

This legislation results from a hearing held by the Senate Oversight of Government Management Subcommittee to discover why truly disabled individuals throughout the country were having their benefits discontinued and their lives disrupted as a result of new reviews of their eligibility.

In 1980, in response to reports that some individuals were receiving benefits, despite being no longer disabled, Congress directed the Social Security Administration to conduct continuing disability investigations—so-called CDI's—of individuals with nonpermanent disabilities every 3 years to insure that only those who were still disabled and unable to work continue to receive benefits.

Unfortunately, the implementation of the law has caused unfairness and injustice to severely disabled people who unexpectedly have had their benefits discontinued. The reviews have created chaos and inflicted pain that Congress neither envisioned nor desired when it enacted what was intended to be a sound management tool.

Between March of 1981 and April of this year, State disability determination units have reviewed more than 430,000 cases sent by the Social Security Administration. Case files are literally overflowing out of boxes in many State offices and have placed unreasonable burdens on many State agencies, particularly in those States where personnel freezes have prevented the hiring of needed staff.

The hardships imposed on disability recipients have been severe. Benefits have been terminated in more than 40 percent of the cases reviewed—far above the 20-percent rate originally predicted by the Social Security Administration. In the State of Maine alone, benefits for more than 1,200 people have been ended since the accelerated review process began, despite the fact that in a number of cases the claimants still appear to be severely disabled and unable to work.

Witnesses at our subcommittee hearing recounted case after case in which a disabled person had lost benefits. A disturbing pattern emerged of misinformation, incomplete medical examinations, inadequately documented reviews, bureaucratic indifference, and erroneous decisions.

Perhaps the most poignant was the testimony of Ethel Kage from Reed City, Mich., whose blind, severely diabetic husband suffered a heart attack and died while appealing the decision that terminated his disability benefits. Mrs. Kage eloquently described her frustration as she attempted to correct the decision that maintained that her ill husband was able to resume work. Sadly, her many inquiries to the Social Security Administration were met with cold indifference—when she was answered at all.

Eventually, after Mr. Kage's death, the Social Security Administration did reverse its earlier decision and retroactively paid benefits for the months from the cessation decision until the date of Mr. Kage's death, but the Kages' doctor believes that it was the stress and worry caused by the loss of his benefits that led to Mr. Kage's fatal heart attack.

If an individual is mistakenly eliminated from the program, as was Mr. Kage, he can appeal this decision, and his chances of eventual reinstatement are good. In fact, administrative law judges, who hear appeals from claimants, are reversing the cessation decision for over 60 percent of the individuals who appeal. But the road to reinstatement is arduous and lengthy, and, in waiting for a final decision, the claimant may be without benefits for many months due to the tremendous backlog of cases. Many individuals have been forced to turn to welfare

since their disability benefits had been their only source of income.

If Congress does not act to remedy this problem, more than 200,000 disabled people will have their benefits terminated only to be reinstated many months later by administrative law judges. The situation is both absurd and cruel. It makes no sense to inflict pain, uncertainty, and financial hardship on disabled workers and then tell them, "Never mind. It was a mistake." It makes no sense to overburden the State agencies and to further clog the appeals process with cases where the individuals clearly remain severely disabled and unable to resume work.

I emphasize that disability benefits are not welfare. A worker earns this insurance through the social security taxes that are deducted each week from his paycheck, and he must have worked a minimum amount of time in order to qualify for those payments. He must also be so disabled that he not only cannot perform the work that he had been doing but cannot engage in any kind of substantial gainful activity which exists not only where he lives in his State, in his county, in his city, but anywhere in the country.

The Federal Government spent more than $17 billion last year to provide benefits to disabled workers, their spouses, and their children. Regular reviews of eligibility are necessary to identify people who are no longer disabled and in need of assistance. It is the manner in which these reviews are being conducted that is faulty, not the principle of review itself. Unless we eliminate from the program those individuals who no longer require assistance, we are certainly going to limit our ability to provide fully for those who do.

Since Congress mandated the periodic reviews but failed to establish specific guidelines for selecting cases and conducting the investigations, I believe that Congress shares a measure of responsibility for the problems that have in fact occurred. That is why Senator LEVIN and I are introducing this legislation today to remedy the problems of the present system by totally revamping it.

First, this bill would shift the burden of proof from the disability recipient to the Government to show that benefits should be discontinued. The initial decision which entitled the individual to benefits would be presumed to be valid. Benefits would not be terminated unless the individual had medically improved or had shown that he could work, or unless the initial decision entitling him to benefits was erroneous or the result of fraud. This change would clear the confusion that shrouds the current process and would make those reviews fairer.

Another provision of our legislation would require uniform standards to be used by all decisionmakers involved in disability determinations. One reason for the discrepancy between the decisions made by the State agencies and the administrative law judges is that different standards are used. State claims examiners rely heavily on the program operating manuals—so-called POM's—which are internal Social Security Administration guidelines that are not published as regulations. The administrative law judges do not use the POM's but instead rely on the statutes, regulations, and court decisions. Our bill would require the same standards—published as regulations and subject to public comment—to be used by all decisionmakers.

To improve the quality of State decisionmaking, lessen the number of appeals, and most important to humanize the system, our legislation would require State agencies to conduct a face-to-face interview with those individuals whose benefits are likely to be terminated. When the State notifies a claimant that, based on the file information, a decision to terminate benefits is likely, our bill would allow the beneficiary 30 days in which to submit any additional information and to request an interview with State personnel. This interview would provide the claims examiners with a much better assessment of the disabled individual's condition and would reassure the claimant that his case is being handled by a person, not a computer.

Because our bill would strengthen the initial decisionmaking at the State level, we would eliminate the reconsideration stage in the appeals process. Currently, the first step in appealing is to request reconsideration by the State agency. In 87 percent of the cases, however, the State agency simply reaffirms its initial decision. Eliminating reconsideration would shorten the length of the appeals process.

Another provision of this legislation would include a definition of pain in the statute. Currently, the Social Security Administration's regulations require the consideration of a claimant's pain in reaching a disability determination. However, the agency recently eliminated the evaluation of pain section from the POM's, which set forth the criteria for disability decisions. To eliminate the confusion that has resulted, our bill includes a carefully constructed definition of pain that would allow its consideration but prevent abuse.

Although the provisions of this bill should substantially reduce the number of people whose benefits are erroneously terminated, there will still be mistakes, as well as disagreements over medical improvement, that will require a hearing before an administrative law judge. Currently benefits are continued for only 2 months after cessation, despite the fact that obtaining a hearing before an administrative law judge may take many months or even a year. Individuals who are reinstated by the administrative law judge receive back benefits, but their checks are not usually resumed for several weeks after the ALJ's decision. One of the witnesses at the subcommittee's hearing, Kathleen Grover, a lawyer from Portland, Maine, told us of a case where a disabled woman was without benefits for 20 months before she was reinstated. In that time, she lost both her house and her car because she had no income. To prevent this needless financial hardship for disabled people who will eventually have their benefits restored, our legislation will continue payments until a hearing is held before an administrative law judge. For beneficiaries who are restored to the program by an ALJ, our bill provides financial protection and the continuation of benefits that they would eventually receive anyway. To control the cost of this provision and to discourage frivolous appeals, our bill would require claimants to repay any benefits received pending the ALJ hearing if the judge upholds the termination decision.

Mr. President, as I listened to Mrs. Kage and the other witnesses at our hearing describing the hardship and heartache that our Government was inflicting, I was reminded of a statement by President Franklin D. Roosevelt:

> Governments can err; Presidents do make mistakes, but the immortal Dante tells us that Divine Justice weighs the sins of the coldblooded and the sins of the warmhearted in a different scale. Better the occasional faults of a Government living in a spirit of charity than the consistent omission of a Government frozen in the ice of its own indifference.

The legislation that we are introducing today is intended to thaw the ice of indifference toward the truly disabled who are wrongfully denied benefits that they are entitled to. Surely, when we are dealing with the most disabled workers in our society, we should take every step, enact every safeguard, to insure that Government does not add another burden to the ones that they already must bear.

Mr. President, because it is going to take time for Congress to consider the comprehensive reform bill we are introducing, Senator LEVIN and I had also drafted an interim solution to the disability problem. This legislation, which we intended to offer last evening as an amendment to the temporary debt ceiling bill, was withdrawn. It was withdrawn under the assurances by the distinguished majority leader, Senator BAKER, that he would lend his support to our efforts to devise a short- as well as a long-term solution to the problems we have described.

I look forward to working with him in the immediate future to provide a just solution to this very serious problem. One aspect of that just solution is in the interim, in the short run, we have to provide a mechanism to continue those payments through the administrative law judges' decisions before we cut off the benefits of those who are in need.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan is now recognized.

SOCIAL SECURITY DISABILITY AMENDMENTS OF 1982

Mr. LEVIN. I thank the Chair.

The legislation I am introducing today with Senator COHEN will alleviate the needless suffering of hundreds of thousands of disabled Americans and their families who are being unjustly ground up by an inequitable system is reviewing disability cases.

I want to thank Senator COHEN for his cosponsorship, for his leadership, for his chairmanship, his distinguished chairmanship, of our oversight Committee on Governmental Affairs which recently held hearings into this matter.

When Congress created the social security disability insurance program, it designed a worker-financed insurance program to protect us all in the times we hope we never see—the times when accidental injury or serious physical or mental disorder prevent us from seeking and keeping a job. The eligibility requirements for this program are very strict and far more so than for other Government disability programs; as a result, this program seeks to serve only the truly and fully disabled.

But sometimes, with time and treatment and good luck, severe injuries do heal, and severe disorders and impairments do abate or improve. And sometimes mistakes are made in assessing disability and ineligible people are allowed onto the rolls. Commonsense tells us, then, that a periodic review of the medical condition of those on disability rolls is necessary, and prudent management should certainly require no less.

It was with this commonsense notion in mind that Congress in 1980 amended title II of the Social Security Act to require that all persons receiving disability benefits (except those permanently disabled) have their eligibility reviewed once every 3 years.

That Congress in 1980 should have been concerned about the management of this program comes as no suprise. The administrative history of the program indicated some structural and managerial failings, all too well documented in critical reports and investigations by the House Ways and Means Committee, the General Accounting Office, the National Commission on Social Security, to name but a few.

Without going into great detail right now, the problems in the program include: Unmanageably large caseloads at all levels; unreasonably long delays in processing cases and in scheduling appeals; conflicting and disparate standards for making disability determinations at the State and appeals level; no managerial standards and procedures for acquiring and evaluating medical evidence. Those are just a few.

The 1980 amendments did more than mandate increased periodic reviews. They also imposed other requirements to improve State management and Federal oversight of the program. These requirements were effective in 1981, but the mandate for increased periodic reviews was not effective until January 1982, so as to allow for adequate staffing and planning for the large increase in case reviews.

When the current Social Security Administration management team assumed responsibility for this program in January 1981, it inherited the list of problems I just outlined and a program which had been managed primarily from crisis to crisis with little recovery between crises. And it also inherited the mandate of all the 1980 amendments.

Rather than waiting until 1982 as the Congress had recommended, the SSA decided to accelerate the periodic review process. In March, 1981, SSA started sending States the first of 357,000 cases to be reviewed by the end of the year, although previously the States had only reviewed 160,000 cases per year, less than half.

In a system which operates smoothly and which suffers no backlogs and delays, this move might have been seen as a good decision by managers eager to meet a congressional mandate. But in a system riddled with case overloads, unreasonable processing and appeals delays, and much confusion between State and Federal decisionmakers, this decision was a very poor and disastrous one—based on an OMB mandate to "tighten administration" and reduce disability payments by $200 million in fiscal year 1982, $500 million in fiscal year 1983, and $700 million in fiscal year 1984. In order to meet those savings goals, the case reviews had to be accelerated to 1981 and the number of cases sent to the States had to be voluminous.

The predictable and resulting overload of cases piled onto an inadequate and troubled process, lengthened delays, increased confusion over the standards for reviewing disability, and lead to hundreds of thousands of erroneous and unjust benefits terminations. The outcry from these results has come from all across the Nation.

After a lengthy and thorough investigation into these complaints, the Senate Governmental Affairs Subcommittee on Oversight held an extensive hearing on May 25 to examine the longstanding problems in the program, the exacerbation of those problems by the voluminous reviews, and the ultimate impact of the reviews on recipients and the people who administer the program. My colleague, Senator COHEN, is the outstanding chairman of that subcommittee. I serve as the ranking minority member.

At that hearing, we heard and received testimony from the Social Security Administration, the General Accounting Office, beneficiaries, administrative law judges, State disability determination offices, disability examiners, and attorneys who daily represent beneficiaries appealing terminations. We also received testimony from groups representing the aged, and the physically and mentally disabled, as well as from many individual doctors who have patients whose benefits have been terminated.

What we learned from what we heard and read was so nightmarish that we were struck by the gravity of the problem, the tragedy of its impact, and the need for comprehensive remedies.

Even normally cool, dry statistics on what has happened speak with rare clarity and passion. In 1979 and 1980, respectively, the SSA reviewed 160,000 cases for continuing eligibility. In 1981, the number rose abruptly, with little warning to State agencies, to 357,000. SSA plans to send 567,000 cases in fiscal year 1982, and 840,000 in fiscal year 1983. I hasten to add that these cases are in addition to the 160,000 cases already reviewed by SSA which will also continue; as a result, the total cases to be reviewed are even more startling; 727,000 in fiscal year 1982 and 1 million in fiscal year 1983.

More disturbing are statistics which reveal that SSA has not been staffed sufficiently to handle the increased workload. State agencies received 233 percent more cases for review by December 1981 than December 1980, and the number of pending cases climbed 368 percent. At the same time, the number of full-time disability examiners in the system only rose 29 percent.

It is no surprise that delays have increased. The average number of cases pending before each administrative law judge (ALJ) was already 128 in 1978; by October 1981 the number had risen to an average of 180 cases pending for each of 700 ALJ's. By as early as the end of August 1981 the number of cases awaiting an ALJ hearing totaled 128,000 and two-thirds of ALJ cases were not being processed within a 165-day time limit previously imposed by a Federal court.

What is most striking is the eventual outcome in the cases reviewed by a system struggling along so desperate-

ly. Between March 1981 and April 1982, SSA reviewed 405,000 cases and nearly half—191,000 or 47 percent were dropped from the rolls, far exceeding the 10 percent estimate made by GAO or even GAO's own 20 percent prediction. The stark tragedy derives from the fact that the terminations are massively unjust. The proof of that is that 67 percent, two-thirds of the appeals to administrative law judges from those terminations result in reversals a year or so later—a 67-percent reversal rate—two-thirds of the people who appeal their cutoff are reinstated by administrative law judges a year later.

The saddest fact of all is that those people who have been unjustly terminated from the rolls suffer without their benefits and accompanying medicare coverage for the duration of the wait for the appeals decision, which can take 9 to 12 months. So, of the 109,000 persons whose benefits were terminated between March 1981, and April 1982, half of those persons will appeal the decision to an ALJ and 67 percent will be reinstated. That means that 36,000 people had to go without needed disability income for anywhere from 9 months to a year—when in fact they never should have been terminated in the first place.

If the present volume of reviews continues without procedural safeguards that means that through 1983, the Social Security Administration will have gone through the costly and unjust effort of terminating and subsequently reinstating 23,200 individuals who deserve to remain on the rolls.

That is the real tragedy—the unnecessary and unjustified suffering of severely disabled people and their dependent families whose benefits are stopped while they wait reinstatement to rolls they never should have been dropped from in the first place.

Why is this happening? Although the increased reviews have exacerbated many problems in the disability program, they did not create the systemic failings which have long existed, through many different administrations. It is those basic inequities and structural weaknesses which allow and perpetuate the anomolous results I have just cited—I stress again that while the reviews have increased the number of injustices and errors and exacerbated the problems, it did not alone cause them.

The problems in the present system for reviewing cases are myriad, but the most prominent and troubling ones are these:

First. SSA terminates benefits without any showing that the disabled person has actually improved medically so that he is no longer disabled, and without any face-to-face contact with the beneficiary.

Second. Beneficiaries are never clearly notified of the gravity of the disability review process or that it could result in termination of benefits.

Third. Cases under review are treated as if they are initial applications; beneficiaries are not informed of the nature of the review, but rather believe that they need only show that their condition remains unchanged or has deteriorated.

Fourth. State agencies follow SSA-issued standard call program operations manual system (POMS) in making disability determinations; these standards often conflict with or ignore Federal court decisions, SSA regulations, and the SSA law.

The problems I have just listed are a culmination of two things: Legislation passed without regard for the impact of such a strong mandate on an overburdened system, and rigid agency interpretation of that mandate without regard for the impact of enormous case reviews on the people who should remain in the program. We all share responsibility for the outcome—it rests equally with the Congress and with the SSA. Assessments of blame are beside the point at this stage; rather we all must work together to remedy a system in shambles and to prevent further injustices in this program.

The legislation we introduce today steamlines and strengthens the procedures for reviewing cases; it establishes standards for reviewing eligibility; it requires uniformity in standards throughout the system; it requires a showing of medical improvement or an error in the initial decision before benefits can be terminated; and provides payment of benefits through the administrative law judge stage.

This legislation, in other words, would alleviate the needless suffering of hundreds of thousands of truly disabled Americans. Mr. President, as much as we do not want people on the disability rolls who do not belong there, we must, with at least equal favor, want to keep truly disabled people on those rolls. That is what this bill will accomplish.

Here is a more detailed summary of what it proposes:

First. Requires that all standards and criteria for disability determinations be promulgated through notice and comment, made a part of Federal regulation, and be considered binding at all levels. Any internal SSA operations instructions would be restricted to operations only and would not further define the Federal regulations.

Second. Requires, in disability reviews, that the Government specifically find, that the person has medically improved to such an extent that the person is no longer disabled, or that the initial finding of eligibility was clearly erroneous based on the standards which were in effect at the time the initial decision was made.

Third. Revises and streamlines the procedure for disability decisions:

State agency informs person in a detailed and clear notice why and how his case will be reviewed, that the review may result in termination of benefits, what the person's responsibilities are, and that it may be advisable to seek legal assistance.

When the State agency makes its initial finding that the benefits should be terminated, notice is sent allowing 30 days in which to present additional information, and informing the person of his or her right to request a face-to-face interview with the disability examiner before the decision is forwarded to SSA's national office for an official determination.

If benefits are then terminated, person would proceed directly to request an ALJ hearing, if done within 60 days; the existing reconsideration stage would be eliminated; only evidence considered at the State level would be admissable at the ALJ level, except medical evidence of deterioration of condition; all other evidence would be remanded to the State level for consideration there, before the ALJ hearing.

Benefits would be continued through the ALJ level.

Fourth. Includes a clear definition of pain and its role in disability decisions.

Fifth. Requires the promulgation of regulations governing the use and purchase of consultative examinations, the weight to be given both evidence from consultative and treating physicians, and ways of monitoring the quality and quantity of consultative examinations.

Mr. President, I ask unanimous consent that a copy of the bill that I am introducing on behalf of myself and Senator COHEN be printed in the RECORD, along with the attached section-by-section analysis of the bill's provisions.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2674

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "Disability Amendments of 1982".

TERMINATION OF BENEFITS BASED ON MEDICAL IMPROVEMENT

SEC. 2. (a) Section 223(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(7)(A) Except as provided in subparagraph (B), no benefits under this section, and no child's, widower's, or widow's benefit based upon disability, may be terminated on the grounds that the physical or mental impairment on the basis of which such benefit was payable has ceased, did not exist, or is no longer disabling, unless the Secretary makes a finding that there has been a medical improvement in the case of such individ-

ual's impairment such that the individual is no longer under a disability under the standards for disability in effect at the time of such prior decision, or that the prior decision that such individual was under a disability was clearly erroneous under the standards for disability in effect at the time of such prior decision.

"(B) Subparagraph (A) shall not apply in the case of a termination of benefits based upon a finding made in accordance with paragraph (4) that services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity, or to a termination based on a finding of fraud.".

(b) The amendment made by this section shall apply with respect to determinations made on or after the date of the enactment of this Act.

PRE-TERMINATION NOTICE AND RIGHT TO PERSONAL APPEARANCE

SEC. 3. (a) Section 221 of the Social Security Act is amended by redesignating subsections (d), (e), (f), (g), and (i) as subsections (f), (g), (h), (i), and (j), respectively, and by inserting after subsection (c) the following new subsections:

"(d)(1) Any preliminary decision rendered by a State agency (or by the Secretary in the case where disability determinations are made by the Secretary as provided in subsection (i)) with respect to an individual's rights for a payment under this title, including any such decision regarding a new entitlement and any decision regarding termination of or change in an existing entitlement, in the course of which a determination relating to disability or to a period of disability is required and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, the preliminary decision, the reason or reasons upon which the decision is based, the right of such individual to a review of such decision, including the right to make a personal appearance, as provided in paragraph (2), and the right to submit additional medical evidence prior to such review. Upon request by any such individual, or by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, husband, widower, child, or parent, who makes a showing in writing that his or her rights may be prejudiced by such a decision, he or she shall be entitled to a review of such decision, including the right to make a personal appearance, and may submit additional medical evidence for purposes of such review. Any such request must be filed within 30 days after notice of the decision is received by the individual making such request, and any additional medical evidence must be submitted during such 30-day period. Failure to make a timely request for a review under this subsection shall also extinguish the right to a hearing under subsection (e) with respect to the same decision.

"(2) A review required under paragraph (1) shall include a review of medical evidence and mental history available at the time of the initial preliminary decision, shall examine new medical evidence submitted in accordance with paragraph (1), and shall afford such individual the opportunity to make a personal appearance with respect to the case at a place which shall be reasonably accessible to such individual. On the basis of the review carried out under this paragraph the State agency (or the Secretary) may affirm, modify, or reverse the preliminary decision.

"(3)(A) In the case of a preliminary decision to terminate benefits in which a determination relating to disability or to a period of disability was made by a State agency, any review under paragraph (2) relating to disability or to a period of disability shall be made by the State agency, notwithstanding any other provision of law, in any State that notifies the Secretary in writing that it wishes to carry out reviews under this paragraph commencing with such month as the Secretary and the State agree upon, but only if, (i) the Secretary has not found, under subsection (b)(1), that the State agency has substantially failed to carry out reviews under this paragraph in accordance with the applicable provisions of this section or rules issued thereunder, and (ii) the State has not notified the Secretary, under subsection (b)(2), that it does not wish to carry out reviews under this paragraph. If the Secretary once makes the finding described in clause (j) of the preceding sentence, or the State gives the notice referred to in clause (ii) of such sentence, the Secretary may thereafter determine whether (and, if so, beginning with which month and under what conditions) the State may again carry out reviews under this paragraph.

"(B) Any review carried out by a State agency under subparagraph (A) shall be made in accordance with the provisions of this title and regulations prescribed thereunder.

"(4) A decision by the Secretary after review under paragraph (2) in the course of which a decision relating to disability or to a period of disability is required and which is in whole or in part unfavorable to the individual requesting the review shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, the Secretary's decision, and the reason or reasons upon which the decision is based.

"(5) The Secretary shall prescribe by regulation procedures for review under this subsection of issues other than issues relating to disability or a period of disability.

"(6) No documentary evidence which is submitted on or after the date of a decision made after review under this subsection relating to entitlement to benefits for periods preceding the date of such decision (hereafter in this section referred to as the 'relevant periods') shall be admitted or considered in connection with entitlement to such benefits for such periods, except as provided in subsection (e)(2), unless such evidence relates to the same impairment with respect to which such review was carried out and could not have been available at the time of such review. Nothing in the preceding sentence, subsection (e)(2), or section 202(j)(2), 216(i)(2)(C), or 223(b) shall be construed to permit, prohibit, or otherwise affect the admission or consideration, at or in connection with any proceeding in which a review relating to an individual's entitlement to benefits for particular relevant periods is involved, of evidence relating to such individual's entitlement to benefits for any other period.

"(7) Each individual who requests a review under paragraph (1) shall be informed, orally and in writing, before the review, of the preceding provisions of this subsection, and shall be advised that the individual may wish to retain an attorney or other representative to assist him.

"(e)(1) Upon request by any individual described in subsection (d)(1) who makes a showing in writing that his or her rights may be prejudiced as the result of a decision under this section which has been affirmed after review under subsection (d), the secretary shall give such individual and other individuals described in subsection (d)(1) reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision in accordance with the provisions of this title and regulations thereunder. Any such request with respect to such a decision must be filed within sixty days after notice that such decision has been affirmed after a review under paragraph (2) is received by the individual making such request.

"(2)(A) In any case in which the individual making the request under paragraph (1) or any other individual described in subsection (d)(1) submits to the Secretary, on or after the date of the decision after review under subsection (d) and before the commencement of a hearing under this subsection, additional documentary evidence relating to disability or to a period of disability affecting entitlement to benefits for the relevant periods, which is otherwise prevented by subsection (d)(6) from being admitted or considered in connection with such entitlement, and the individual does not make the election under subparagraph (B)—

"(i) if the determinations made in the course of such decision on review include a determination relating to disability or to a period of disability which was made by a State agency under subsection (d)(2), such additional evidence, together with the evidence considered in reaching such decision, shall be remanded to the State agency for review, or

"(ii) if such determination relating to disability or to a period of disability was made by the Secretary in accordance with subsection (i), such additional evidence, together with the evidence considered in reaching such decision, shall be reviewed by the Secretary.

"(B) An individual who submits additional evidence as described in subparagraph (A) may nevertheless elect that no remand or review occur under subparagraph (A) with respect to such evidence and that such additional evidence be disregarded for purposes of determining entitlement under this subsection. The Secretary shall notify such individual upon submitting such evidence of the provisions of this paragraph and of the election available under this subparagraph and provide such individual with a reasonable period of time within which to make such election before remanding or reviewing such evidence under subparagraph (A).

"(C) The State agency, on remand, or the Secretary, on review, shall consider the record, as supplemented by such additional evidence, in connection with benefits for the relevant periods and shall affirm, modify, or reverse the prior decision relating to disability or to a period of disability. The Secretary shall inform such applicant or other individual of the decision on further review based on determinations made on such remand or in such secretarial review and of the right to request a hearing thereon under this subsection.

"(3) The Secretary shall prescribe by regulation a period of time after hearing decisions under this section during which the Secretary, on his own motion or on the request of the individual requesting the hearing, may undertake a review of such decision. If such decision is not so reviewed, such decision shall be considered the final decision of the Secretary at the end of such

period. If such decision is so reviewed, at the end of any such review the Secretary shall affirm, modify, or reverse the decision and such decision as so affirmed, modified, or reversed shall be considered the final decision of the Secretary. Any such review shall be governed by the requirements of this subsection.".

(b)(1) Section 221(j) (as so redesignated by subsection (a) of this section) is amended by inserting "(1)" after "(j)" and by adding at the end thereof the following new paragraph:

"(2) In any case where the Secretary initiates a review under this subsection of the case of an individual who has been determined to be under a disability, the Secretary shall notify such individual of the nature of the review to be carried out, the possibility that such review could result in the termination of benefits, and the right of the individual to provide medical evidence with respect to such review.".

(2) Section 221(c) of such Act is amended by adding at the end thereof the following new parapraph:

"(4) In any case where the Secretary initiates a review under this subsection of a determination made by a State agency that an individual is under a disability, the Secretary shall notify the individual whose case is to be reviewed of the nature of the review to be carried out and the possibility that such review could result in the termination of benefits.".

(c)(1) Section 202(j)(2) of such Act is amended to read as follows:

"(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and—

"(A) no request under section 205 (b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary), and

"(B) in the case of an applicant with respect to whom disability is required for such benefits under subsection (d) (1) (B) (ii), (e) (1) (B)(ii), or (f) (1) (B) (ii), no request for review under section 221 (d) is made, or if such a request is made, subject to section 221 (d) (6), before a decision on review is made under section 221 (d).".

(2) Section 216 (i) (2) (G) of such Act is amended by striking out "and no request" and all that follows and inserting in lieu thereof the following: "and no request for review under section 221 (d) is made, or if such a request is made, subject to section 221 (d) (6), before a decision on review is made under section 221 (d).".

(3) Section 223 (b) of such Act is amended by striking out "and no request" and all that follows down through the end of the first sentence and inserting in lieu thereof the following: "and no request for review under section 221 (d) is made, or if such a request is made, subject to section 221 (d) (6), before a decision on review is made under section 221 (d).".

(d) Section 205 (b) of the Social Security Act is amended to read as follows:

"(b) (1) The Secretary is directed to make findings of fact and decisions as to the rights of any individual applying for a payment under this title.

"(2) (A) The Secretary may provide for review of such decisions (other than decisions to which subparagraph (B) applies) and shall provide for hearings in accordance with paragraph (3).

"(B) If the determinations required in the course of making any such decision include a determination relating to disability or to a period of disability and such decision is in whole or in part unfavorable to an individual applying for a payment under this title, the Secretary shall provide for review of such decision and for hearings in accordance with section 221.

"(3) Upon request by any individual applying for a payment under this title or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, husband, widower, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Secretary has rendered (other than a decision to which paragraph (2)(B) applies), he shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse his findings of fact and such decision. Any such request with respect to any such determination must be filed within sixty days after notice of the decision is received by the individual making such request.

"(4) The Secretary is further authorized, on his own motion, to hold such hearings and to conduct such investigations and other proceedings as he may deem necessary or proper for the administration of this section, section 221, and the other provisions of this title.

"(5) In the course of any hearing, investigation, or other proceeding referred to in paragraph (4), the Secretary may administer oaths and affirmations, examine witnesses, and receive evidence.

"(6) Evidence may be received at any hearing referred to in paragraph (4) even though inadmissible under rules of evidence applicable to court procedure.

"(7) Subject to the specific provisions and requirements of this Act—

"(A) any hearing held pursuant to this subsection or section 221(e) shall be conducted on the record and shall be subject to sections 554 through 557 of title 5, United States Code, and any decision made by the Secretary after such a hearing shall constitute an 'adjudication' within the meaning of section 551(7) of such title; and

"(B) the Secretary, in accordance with section 3105 of title 5, United States Code, shall appoint administrative law judges who, in any case in which authority to conduct hearings under this subsection or section 221(e) is delegated by the Secretary, shall conduct such hearings, issue decisions after such hearings, and perform such other functions and duties described in sections 554 and 557 of such title as are applicable to such hearings.".

(e) Section 221 of such Act is further amended—

(1) in subsecton (b)(1), by inserting "under subsection (a)(1) or reviews under subsection (d)" after "disability determinations" the first place it appears, and by inserting before the period the following: "or the disability reviews referred to in subsection (d)(2) (as the case may be)";

(2) in subsection (b)(2), by inserting "or reviews under subsection (d)(2) (as the case may be)" after "subsection (a)(1)" the first place it appears, and by inserting before the period in the last sentence the following: "or the disability reviews referred to in subsection (d)(2) (as the case may be)";

(3) in subsection (b)(3)(A), by inserting "under subsection (a) or review function under subsection (d)" after "function", and by inserting "under subsection (a) or review process under subsection (d) (as the case may be)" after "process";

(4) in subsection (b)(3)(B), by inserting "under subsection (a) or review function under subsection (c)" after "function", and by inserting "under subsection (a) or review process under subsection (d) (as the case may be)" after "process";

(5) in subsection (f) (as redesignated by subsection (a)), by inserting "(1)" before "Any", by striking out "subsection (a), (b), (c), or (g)" and inserting in lieu thereof "subsection (b)", and by adding at the end thereof the following new paragraph:

"(2) Any individual who requests a hearing under subsection (e) and who is dissatisfied with the Secretary's final decision after hearing shall be entitled to judicial review of such decision as is provided in section 205(g).";

(6) in subsection (g) (as redesignated by subsection (a)), by striking out "under this section" and inserting in lieu thereof "or review under subsection (d)(2)", by inserting "or reviews under subsection (d)(2), as the case may be" after "under subsection (a)(1)" the second place it appears, and by striking out "subsection (f)" and inserting in lieu thereof "subsection (h)";

(7) in subsection (i) (as redesignated by subsection (a)), by inserting "or reviews under subsection (d)(2)" after "subsection (a)(1)", by inserting "under subsection (a)(1) or reviews under subsection (d)(2)" after "disability determinations" the second place it appears, by inserting after "guidelines," the following: "in the case of disability determinations under subsection (d) to which paragraph (5) thereof does not apply,", by inserting "under subsection (a) or reviews under subsection (d)" after "disability determinations" the third place it appears, by inserting "or the reviews referred to in subsection (c) (as the case may be)" after "in subsection (a)", and by adding at the end thereof the following new sentence: "In the case of a review by the Secretary of a decision to terminate benefits, any disability determination made by the Secretary under this subsection in the course of such review shall be made after opportunity to make a personal appearance as provided in subsection (d)(2).."; and

(8) in subsection (j) (as redesignated by subsection (a)), by adding at the end thereof the following new sentence: "An individual who makes a showing in writing that his or her rights may be prejudiced by a determination under this subsection with respect to continuing eligibility shall be entitled to a review and a hearing to the same extent and in the same manner as provided under subsections (d) and (e).".

(f)(1) Except as provided in paragraph (2), the amendments made by this section shall apply with respect to requests for reviews of decisions by the Secretary of Health and Human Services filed after the date of the enactment of this Act.

(2)(A) Section 221(d)(3) of the Social Security Act, as amended by subsection (a) of this section, shall apply only with respect to requests (for reviews of decisions by the Secretary) filed—

(i) after the last day of the sixth month beginning after the date of the enactment of this Act, or

(ii) with respect to reviews (relating to disability or to periods of disability) to be made by a State agency in any State which notifies the Secretary in writing that it wishes to carry out reviews under such section 221(d)(3) prior to the seventh month beginning after the date of the enactment of this Act, on or after the first day of such month (after the month in which this Act is enacted and prior to the seventh month beginning after the date of the enactment of this Act) as may be specified in such notice.

For purposes of such section 221 (d) (3), each State shall initially notify the Secretary in writing that it wishes to carry out reviews under such section (specifying the month with which it wishes to commence carrying out such reviews), or shall notify the Secretary in writing that it does not wish to carry out such reviews, no later than the last day of the sixth month beginning after the date of the enactment of this Act; and any State which has not so notified the Secretary by such date, shall be deemed for all the purposes of section 221 of the Social Security Act to have notified the Secretary in writing (as of that date) that it does not wish to carry out such reviews.

(B) During any period during which the provisions of section 221(c)(3) of the Social Security Act are not yet in effect in any State, and prior to the seventh month beginning after the date of the enactment of this Act, State agencies shall continue to provide for reconsideration of disability cases under title II of the Social Security Act in the same manner as required on the date of the enactment of this Act.

CONTINUED PAYMENT OF DISABILITY BENEFITS DURING APPEAL

SEC. 4. (a) Section 223 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"Continued Payment of Disability Benefits During Appeal

"(C)(1) In any case where—

"(A) an individual is a recipient of disability insurance benefits, or child's, widow's or widower's insurance benefits bases on disability,

"(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabiling, and as a consequence such individual is determined not to be entitled to such benefits, and

"(C) a timely request for a hearing with respect to the determination, that he is not so entitled is made under section 221(e),

such individual may elect (in such manner and form and within such time as the Secretary shall by regulations prescribe) to have the payment of such benefits, and the payment of any other benefits under this Act based on such individual's wages and self-employment income (including benefits under title XVIII), continued for an additional period beginning with the first month for which (under such determination) such benefits are no longer otherwise payable and ending with the month preceding the month in which a decision is made after opportunity for such a hearing.

"(2) If an individual elects to have the payment of his benefits continued for an additional period under paragraph (1) pending a hearing, and the decision after opportunity for such hearing affirms the determination that he is not entitled to such benefits, any benefits paid under this title pursuant to such election (for months in such additional period) shall be considered overpayments for all purposes of this title."

(b) The amendment made by subsection (a) shall apply with respect to determinations (that individuals are not entitled to benefits) which are made on or after the date of the enactment of this Act.

UNIFORM STANDARDS FOR DISABILITY DETERMINATIONS

SEC. 5. Section 221 of the Social Security Act (as amended by section 3 of this Act) is further amended by adding at the end thereof the following new subsection:

"(k)(1) The Secretary shall provide by regulation that uniform standards shall be applied at all levels of determination, review, and adjudication in determining whether individuals are under disabilities as defined in section 216(i) or 223(d), and that such standards are in accordance with the provisions of this title and regulations thereunder.

"(2) Regulations promulgated under paragraph (1) shall include procedures for the use and purchase of consultative medical examinations, the weight to be given such consultative examinations, the weight to be given medical examinations by a treating physician or other treating health care provider, and methods for monitoring the quality and quantity of such consultative examinations.

"(3) Regulations promulgated under paragraph (1) shall be subject to the rulemaking procedures established under section 553 of title 5, United States Code.".

TERMINATION DATE FOR DISABILITY BENEFITS

SEC. 6. (a) Section 223 (a)(1) of the Social Security Act is amended—

(1) in the first sentence, by inserting "as defined in paragraph (3)" after "termination month"; and

(2) by striking out the second sentence.

(b) Section 223 (a) of such Act is amended by adding at the end thereof the following new paragraph:

"(3)(A) Except as otherwise provided in this paragraph, the termination month for any individual shall be the third month following the month in which such individual's disability ceases.

"(B) In the case of an individual who has a period of trial work which ends as determined by application of section 222 (c)(4)(A), the termination month shall be the earlier of—

"(i) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment; or

"(ii) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity.

"(C)(i) Except as provided in clause (ii), in any case where a benefit under this section, or a child's, widow's, or widower's benefit based on disability, is terminated on the grounds that the physical or mental impairment on the basis of which such benefit was payable has ceased, did not exist, or is no longer disabling, the termination month shall be the month in which a decision affirming such termination has been initially made after a review in accordance with section 221(d)(2), or the month in which the time for requesting such an initial review has expired and no review was requested.

"(ii) Clause (i) shall not apply in the case of any termination of benefits based upon a finding made in accordance with subsection (c)(4) that services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity, or to a termination based upon a finding of fraud.".

(c) The amendments made by subsections (a) and (b) shall apply with respect to determinations made on or after the date of the enactment of this Act.

EVALUATION OF PAIN

SEC. 7. (a) Section 223(d)(5) of the Social Security Act is amended by inserting after the first sentence the following new sentence: "An individual's statement as to pain or other symptoms shall not alone be conclusive evidence of disability as defined in this section; there must be medical signs and findings, established by medically acceptable clinical or laboratory diagnostic techniques, which show the existence of a medical condition that could reasonably be expected to produce the pain or other symptoms alleged and which, when considered with all evidence required to be furnished under this paragraph (including statements of the individual as to the intensity and persistence of such pain or other symptoms which may reasonably be accepted as consistent with the medical signs and findings), would lead to a conclusion that the individual is under a disability.".

(b) The amendment made by subsection (a) shall apply with respect to determinations of disability made on or after the date of the enactment of this Act.

SECTION-BY-SECTION ANALYSIS OF LEVIN-COHEN "DISABILITY AMENDMENTS OF 1982"

Section 1. Title—"Disability Amendments of 1982."

Section 2. Termination of Benefits Based on Medical Improvement:

(a) Disability benefits shall not be terminated on basis of cessation of original mental or physical impairment, or that it is no longer disabled unless SSA finds that there has been medical improvement to the extent that the person is no longer disabled under the standards in effect at the time of the original disability determination.

(b) The above section does not apply in the case where termination of benefits is based on a finding that the individual is engaged in substantial gainful activity, or to a determination based on a finding of fraud.

(c) Effective at enactment of Act.

Section 3. Pre-Termination Notice and Right to Personal Appearance:

(d)(1) Any preliminary decision reached by state agency is communicated to beneficiary in a notice which includes a clear statement of the case, in understandable language, setting forth a discussion of the evidence, the preliminary decision, the reasons upon which it is based, the right of the individual to have the state agency review the decision after the beneficiary has submitted additional medical evidence, and that the beneficiary has a right to request a face-to-face interview with the state agency, if requested within 30 days of the preliminary decision.

Failure to request a review here will extinguish the right to request an ALJ hearing.

(2) The review by the state agency shall include a review of medical evidence and medical history and shall afford the individual an opportunity to make a personal appearance, if requested. After this review, the state agency may affirm, modify, or reverse its preliminary decision.

(3)(A) Conforming language regarding state authority to conduct such reviews for Secretary.

(3)(B) Reviews must be made according to regulations.

(4) If review is unfavorable to individual, SSA provides a notice which sets forth a discussion of the evidence, the decision, and the reasons upon which it was based.

(5) Evidence not submitted in time for this review is not later admissible unless it could not have been available at the time.

(6) SSA shall prescribe by regulation procedures for review of issues other than issues relating to disability.

(7) Each person who requests a review by the state agency shall be informed orally and in writing that evidence not submitted at the time will not later be admissable and shall be advised that the individual may wish to retain an attorney or other representative to assist him.

(e)(1) Upon request, individual or affected person may request an ALJ hearing if filed within 60 days.

(2)(A) Any additional evidence submitted here which was not considered by the state agency in its review will be remanded to the state agency for consideration and another review which considers that evidence along with original evidence.

(2)(B) The individual may elect not to have the new evidence sent back on remand, but may elect to go to ALJ review on the evidence available at the time of the original state review.

(2)(C) If the individual elects to remand the evidence to the state agency for another review, the state agency is authorized to affirm, modify, or reverse its original decision. After that decision, the individual is so informed and notified of his right to still seek an ALJ hearing.

(3) Preserves Secretary's authority to conduct own motion review or review at individual's request—Appeals Council authority.

(b)(1) amendments to Section 221(j). Any review by SSA of an individual's continuing disability shall be preceded by a notice to the individual explaining the nature of the review, the possibility that such review could result in termination of benefits, and the individual's right to provide medical evidence.

(2) amendments to Section 221(c). Applies similar notice requirement to Secretary's own motion reviews of case (omitting right to provide medical evidence).

(c)-(d) Applies similar notice and state agency procedures to initial applications. Details nature of ALJ hearing for both initial denials and terminations—same as under current procedures.

(e) conforming language amendments. Restatement of individual's right to seek judicial review if dissatisfied with agency decision.

(f)(1) New procedures effective after date of enactment with respect to requests for reviews of decisions made after that date.

(2) Except six month period for putting new procedures in place, and to allow for state election to perform continue to perform disability function for SSA. Consistent with existing language of state agency acceptance. In the interim, existing procedures continues to operate.

Section 4. Continued Payment of Disability Benefits During Appeal:

(c)(1) Where the state agency's final decision is to terminate benefits and where the individual has requested an ALJ hearing, the individual may elect to have his benefits continued to end the month preceding the ALJ decision.

(2) If the individual's benefits are terminated after ALJ review, the benefits paid during that period are treated as overpayments.

Section 5. Uniform Standards for Disability Determinations:

(1) Uniform standards and requirements required at all levels of decisionmaking, and must be in accordance with statute.

(2) Regulations regarding the purchase and use of consultative examinations must be promulgated.

(3) Uniform standards and requirements must be embodied in Federal regulations which have gone through APA notice and comment procedures.

Section 6. Termination Date for Disability Benefits: Conforming amendments to reflect change in times for decisions.

Section 7. Evaluation of Pain: Establishes a definition of pain and its role in reaching disability determinations, to be applied at all levels.

Mr. LEVIN. Mr. President, I thank the Chair and the Senator from Maine.

## RECOGNITION OF SENATOR BUMPERS

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas (Mr. BUMPERS) is now recognized for a period not to exceed 15 minutes.

## POWDER RIVER BASIN FEDERAL COAL SALE

Mr. BUMPERS. Mr. President, this morning I was supposed to have testified before the House Subcommittee on Mines and Mining regarding the recent sale of Federal coal in the Powder River Basin in Wyoming and Montana. But I believe there are several features of that sale that ought to be brought to the immediate attention of my colleagues, so I have decided to use the Senate as my forum rather than the House subcommittee.

On May 18, I wrote the Secretary of the Interior James Watt to express my concern about his decision to lease such a large amount of coal in the Powder River basin and also about the procedures used in offering the tracts for lease.

Mr. President, I ask unanimous consent that the letter I sent to the Secretary be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ENERGY AND
NATURAL RESOURCES,
*Washington, D.C., May 18, 1982.*

Hon. JAMES G. WATT,
*Secretary, Department of the Interior, 18th and C Streets NW., Washington, D.C.*

DEAR SECRETARY WATT: I am writing to express several concerns about the Department of the Interior's recent Powder River Basin federal coal lease sale, and to ask that you not issue the leases until several questions regarding the sale can be resolved.

First, I have strong reservations about the Department's decision to offer for lease 1.6 billion tons of federal coal in the Powder River Basin. Particularly since more than 9 billion tons of federal coal are already under lease in the area, and since the market for coal reserves is slack, I do not understand the rationale behind offering additional tracts for lease at this time. The low bids received and the lack of bidders for several tracts suggest that the offerings far exceeded demand for the resource.

I am also very concerned about the sale procedures used in the Powder River Basin sale and recent allegations that minimum acceptable bid data may have been seen by industry representatives before the sale. The Department's decision to publish entry level bids that were $42 million less than the original estimates of minimum acceptable bids is made more disturbing by the evidence that industry representatives, state officials, and private individuals obtained confidential information.

Because of the size of the Powder River Basin sale and the seriousness of these charges, I do not believe that the leases should be issued until a full investigation of the sale can be held and any questions regarding the sale procedures can be resolved. I hope that such an investigation will be conducted internally by the Interior Department, and also that the appropriate Congressional committees will examine the sale.

Specifically, I would appreciate your providing me with answers to the following questions:

(1) What was the basis for offering an additional 1.6 billion tons of federal coal for lease in the Powder River Basin, when 9 billion tons of coal have already been leased in the area?

(2) The assessment of federal coal leases recently released by the Office of Technology Assessment concluded that there is at least the potential for continued high overcapacity of leased coal in the Powder River Basin. This calculation did not include the additional coal sold on April 18. Does the Department of the Interior have data that refutes this conclusion?

(3) Does the Department feel that the results of the Powder River Basin sale indicate that the demand for the coal justified such a large sale?

(4) How do the bids received for the Powder River Basin tracts compare with prices paid for comparable non-federal coal reserves in the area?

(5) Does the Department plan to accept all of the bids offered for the tracts that received bids?

(6) Prior to the Powder River Basin sale, how did the Department determine fair market value for federal coal tracts? Please describe the sale procedures used in previous sales.

(7) How is fair market value being determined for the Powder River Basin tracts? How does this differ from the former procedure?

(8) Why did the Department of the Interior decide to abandon its usual method of determining fair market value and setting minimum acceptable bids before the sale, instead set "entry level bids" and determine fair market value of the bids after the sale?

(9) Why did the Department decide to change its usual sale procedures just before the largest federal coal sale in history?

(10) How were the "entry level bids" for the Powder River Basin tracts established?

(11) According to recent reports in Inside Energy and the Washington Post, the Department's original estimates of minimum acceptable bids were seen by industry and

state representatives before the sale notice, and these minimum bids were then discarded in favor of entry level bids set at a lower amount. Does the Department have an informal practice of soliciting comments on the minimum acceptable bids from industry prior to sales?

(12) Did comments from industry or other parties influence the Department's decision to publish the lower entry level bids instead of following the usual coal sale procedures?

(13) In a March 16, 1982, memorandum to the Interior Department's Deputy Chief for Onshore Minerals Management, Dwayne E. Hull, Minerals Manager for the North Central Region, states: "It has been confirmed . . . that our (minimum acceptable bid) values have been distributed by unknown parties . . . and are in the hands of some industry, state and private individuals . . . our fear is, the sale procedures may be compromised."

What action did the Interior Department take after learning that this confidential information may have been distributed before the sale?

I hope you will agree that the Powder River Basin leases should not be immediately issued. Surely there is no urgent need to issue the long-term leases when so much federal coal is already available for production in the area. Since the Department plans to offer an additional 5 billion tons of federal coal for lease within the next year, it is important that both the Department and the Congress be satisfied with the procedures used as well as the results of the sale.

Thank you for your cooperation in this matter.

Sincerely,

DALE BUMPERS.

Mr. BUMPERS. Mr. President, I asked the Secretary to refrain from issuing those leases until Congress could be satisfied that the sale had been properly conducted. To date, I have not had a response from the Secretary.

So I was pleased that the House subcommittee had decided to hold the hearings, and I hope the appropriate Senate committees will also hold hearings to determine whether we really need to accelerate the leasing of our Federal coal at a time when the demand for coal in this country is especially slack.

The Powder River Basin coal sale, which was held April 28, was the largest Federal coal sale in history. Nearly 1.6 billion tons were offered for lease and more than $54 million in bonus bids were collected by the Department of the Interior. The Secretary has repeatedly said that this sale was a tremendous success.

I am here speaking this morning because I strongly disagree with the Secretary. And here are three very valid reasons why I disagree with him:

First, the Department's decision, just a few weeks before the sale, to change its usual sale procedures; second, the possibility that the industry representatives who were bidding on the coal were involved in the decision to change the bidding procedures; and, third, the tremendous amount of coal that was offered for lease.

Mr. President, in 1976 we passed the Federal coal leasing amendments to insure that the Government received fair market value for its coal. Subsequently, the Interior Department's coal leasing program required that the value of coal tracts would be determined before the tracts were leased; in other words, the Department would set what it determined to be fair market value of the coal before people were invited to bid on it. Bids for the tracts that did not equal at least what the Interior Department had said was the fair market value, or the "minimum acceptable bid," were rejected. The system was straightforward, it was effective, and it was fair.

Conforming to this procedure, the Interior Department initially took steps to determine the fair market value of the Powder River Basin tracts before the sale. But just before the April 28 sale date, the Department suddenly decided to abandon the usual procedure of determining the minimum acceptable bids before the sale. Instead, the Department chose to publish "entry level bids," and to determine only after the bids were received if those bids met the law's requirement that coal be sold only at the fair market value.

Now listen to these figures: The entry level bids were published in the Federal Register on April 1 before this sale on April 28. Those entry level bids totaled $52.2 million.

Mr. President, that is $42,200,000 less than the Department's original estimates of the value of those tracts.

Before the sale, Interior Department officials admitted that this approach would allow the bidding to affect their decisions regarding the value of the tracts. Apparently it did, because the Department has chosen to accept all but one of those bids which were way under the fair market value as originally determined by the Interior Department, itself.

That means, Mr. President, we are letting those coal tracts go for these bids that were 42 percent less than the Department had said they were worth. Only one of the 11 bids was rejected.

Given the 42-percent difference in the Department's original estimates of the value of the tracts and the bids that the Department plans to accept, I think it is important that the Secretary and the Department justify to the Congress their reasons for changing the bidding procedures at such a late hour.

To my knowledge, no serious objections to the previously used procedure have ever been raised. It was working fine. So I do not understand why the Interior Department decided to discard those procedures in favor of an experimental approach just a few weeks before the largest coal sale in history.

The second matter that concerns me, Mr. President, is the evidence that preliminary estimates of the value of the tracts were reviewed before the sale by the very people who were going to bid on those tracts. The information has always been considered strictly confidential. Yet numerous industry and Department officials have claimed that industry representatives saw these figures before the sale.

In a March 26 memorandum, Interior's regional minerals manager stated, "It has been confirmed * * * that our minimum acceptable bid values have been distributed to unknown parties * * * and are in the hands of some industry, State, and private individuals * * *."

The memorandum goes on to say, "Our fear is that the sale procedures may be compromised."

Well, Interior's abrupt decision to lower the minimum bid total from $94.7 million to $52.2 million certainly raises a serious question about industry involvement in the bidding procedures. The Department has repeatedly denied that comments from industry influenced its decision to lower the minimum bids. Nevertheless, I think these allegations are serious. We are talking about $42.2 million.

Mr. President, the use of experimental bidding procedures and the possibility of inappropriate industry involvement in determining how much companies will have to bid for coal is sufficient reason for the Congress to look at this sale very closely. But I am even more concerned about why we are leasing 1.6 billion tons of coal when the demand is low, and when billions of tons of Federal coal are already under lease and not being developed.

A recent study of the Federal coal leasing program conducted by the Office of Technology Assessment concluded that there are nearly 16.5 billion tons of Federal coal already under lease, and another 6 billion tons may be subject to preferential, noncompetitive lease applications.

Mr. President, at recent rates of production we already have a 200-year supply of coal under lease. So the question, for Mr. Watt is: Why are we leasing another 1,600,000,000 tons? And why is the Interior Department proposing to lease another 5 billion tons in the next year?

In the Powder River Basin alone, 9 billion tons have already been leased, and of this total, 3.3 billion tons are so far from being developed that no mining plans have even been submitted to Interior. OTA found that the potential for continued high overcapacity in the Powder River Basin will exist well into the 1990's. But despite these figures, the Interior Department chose to offer to lease an additional 1,600,000,000 tons.

Surely, there is no urgent need to lease significant additional amounts of Federal coal under these circumstances. The low bids received and lack of bidders for several tracts in the Powder River Basin sale strongly suggest that additional leasing is highly inappropriate.

Think about this—with coal selling for $25 or $30 a ton, the average bid for that 1,600,000,000 tons in the Powder River Basin was 3.5 cents per ton; 4 of the 11 tracts that received bids brought less than 1 penny a ton.

Why even offer coal for sale if you are going to accept bids of a penny a ton? When the average bid for the Powder River Basin coal is compared to recent prices paid for coal in transactions between private parties, it is clear that the Government is really a very weak player in the coal market. A study prepared for OTA found that recent prices paid for coal in private transactions where the Government was not involved—have ranged from 18 cents per ton to $1.66 per ton. But the U.S. Government is letting coal tracts for seven one-hundredths of 1 penny.

Another review of the Powder River Basin sale concluded that "The recent lease sale appears to have returned to the pre-1966 era when companies were able to obtain Federal coal reserves at minimal cost, and with little concern for competition from others. The Department of Interior would be foolish to accept any of the high bids in the recent lease sale, except perhaps Amax's bid for the Little Rawhide Creek tract."

I would certainly have to agree.

Mr. President, I ask unanimous consent that a table showing the bidders, the tracks, the entry level bid, the bid per acre, the total amount of the bid and the amount bid per ton be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

RESULTS OF THE POWDER RIVER REGIONAL COAL LEASE SALE, APR. 28, 1982, CHEYENNE, WYO.

| Tract name | Bidder(s) | Acres | Million tons | Entry level bid | Bid per acre | Total bid | Amount per ton (cents) |
|---|---|---|---|---|---|---|---|
| Little Rawhide Creek (Wyoming) | Meadowlark Farms (AMAX) | 530 | 90.0 | [1] $13,600 | $14,000.00 | $7,420,000.00 | 8.2 |
| Spring Creek (Montana) | No bids | 659 | 35.0 | [1] 4,200 | | | |
| Spring Draw (Wyoming) | Shell Oil Co | 3,687 | 323.0 | [1] 7,000 | 7,025.00 | 25,901,175.00 | 8.0 |
| North Decker (Montana) | No bids | 1,431 | 66.0 | [1] 2,300 | | | |
| Rocky Butte (Wyoming) | Texas Energy Services/Northwest Mutual Life | 4,856 | 445.0 | [1] 2,300 | 2,300.00 | 11,168,800.00 | 2.5 |
| Duck Nest Creek (Wyoming) | Meadowlark Farms (AMAX) | 1,154 | 143.0 | [1] 3,100 | 3,125.00 | 3,606,250.00 | 2.5 |
| Keeline (Wyoming) | Rosebud Coal Sales (NERCO) | 3,238 | 170.0 | [1] 25 | 498.00 | 1,612,524.00 | 9 |
| | Neil Butte Co [2] | | | | [2] 500.00 | [2] 1,619,000.00 | |
| Coal Creek (Montana) | Coal Creek Mining Co | 1,033 | 60.0 | [1] 25 | 330.00 | 340,890.00 | 58 |
| | Wesco Resources [2] | | | | [2] 340.00 | 351,220.00 | |
| Colstrip A & B (Montana) | Western Energy (Montana Power Co.) | 1,633 | 58.5 | [1] 25 | 25.50 | 41,641.50 | .07 |
| Colstrip D (Montana) | do | 2,250 | 43.5 | [1] 25 | 25.50 | 57,375.00 | 1.3 |
| Colstrip C (Montana) | do | 893 | 18.9 | [1] 25 | 25.50 | 22,771.50 | 1.2 |
| West Decker (Montana) | Montana Royalty Co. (NERCO) [2] | 40 | 5.0 | [1] 25 | [2] 500.00 | [2] 20,000.00 | .4 |
| | Neil Butte Co | | | | 490.00 | 19,600.00 | |
| Cook Mountain (Montana) | Thermal Energy (Washington Energy Co.) | 2,096 | 178.0 | [3] 2.5 | [3] 2.5 | 4,450,000.00 | 2.5 |
| Toal | | | | | | 54,658,000.00 | [4] 3.56 |

[1] In dollars per acre.
[2] Apparent high bidder.
[3] Cents per ton.
[4] Cents per ton average bonus bid.

Mr. BUMPERS. Eight of the thirteen tracts offered had only one bidder and two tracts had no bidders. I cannot believe that the energy resources of this country are being managed in such a haphazard and sloppy, if not possibly fraudulent, manner.

When the coal leasing amendments passed in 1976, the Congress believed that coal would thereafter be leased for production, rather than speculation. But the Interior Department has changed the previous policy of leasing coal to meet the demand for production to a policy of leasing to meet industry's demands for reserves.

Nobody feels stronger about making this country energy independent than me, or about the importance of our domestic coal reserves in achieving energy independence. I am not saying that we ought to withhold the coal reserves needed for production. But when 16.5 billion tons of undeveloped coal are under lease and not being developed, and another 6 billion tons may soon be leased noncompetitively, I do not see any compelling reason to lease additional reserves.

I certainly do not understand why the Secretary of the Interior insists on giving away the Federal coal resources which belong to every citizen of this country, at literally bargain prices.

Coal production is not likely to suffer if additional reserves are not leased immediately, but the Federal Treasury will suffer if we flood a soft market with 20-year Federal coal leases.

I hope that the procedural questions surrounding the Powder River basin sale will not divert the Senate's attention from this issue. The Department's plans to hold additional major coal sales next year make it necessary that any questions regarding the sale procedures used in the Powder River basin sale be resolved. I have not heard from the Secretary. I believe that the Department has a responsibility to convince the Congress that proceeding with such an ambitious leasing program is in the best interest of the public, and not only that of the coal industry.

Mr. President, I yield the floor.

## RECOGNITION OF SENATOR CHILES

The PRESIDING OFFICER. Under the previous order, the Senator from Florida is recognized for a period not to exceed 15 minutes.

## CRIME CONTROL ACT OF 1982

Mr. CHILES. Mr. President, I stand before the Senate today to once again remind my fellow colleagues of the serious crime problem that our Nation is facing, and to encourage the Senate, in the strongest terms possible, to act on anticrime legislation. For the past month, Senator NUNN and I have come to the Senate floor every day to stress the need for the Senate to confront this issue. We have delivered these messages because we are concerned that, with only a short time remaining in this session, the Senate will fail to address crime fighting legislation. It would be disastrous if this happened. The American public is crying out in frustration for changes in our criminal justice system that will help us to combat crime. I do not think that we meet our duty to them if we fail to heed their call.

Mr. President, at this point we have two major anticrime bills pending on the Senate Calendar. First, there is S. 2543, the package proposal that Senator NUNN and I introduced back on May 19. S. 2543 contains reforms in bail bond laws, habeas corpus procedures, sentencing for large scale marihuana traffickers, and Federal laws re-

garding contract murders. These are all areas which deserve attention. Senator NUNN and I have 17 additional cosponsors for this legislation. Then, there is S. 2572, the proposal introduced by the chairman and ranking minority member of the Senate Judiciary Committee, Senator THURMOND and Senator BIDEN. S. 2572 is also a package proposal which includes a number of significant reforms, such as victim protection and criminal forfeiture. Senator NUNN and I cosponsor and strongly support this legislation as well. There are some 50 cosponsors of this legislation.

The point here is that these two proposals can be called up at any time. Both of them have been on the calendar for almost a month now. I want to keep this thought fresh in my colleague's minds. I realize that the Senate has a full agenda of other issues which need to be considered. I do not think, however, that we can afford to put the crime problem on the back burner.

To emphasize the need for crime fighting legislation, I have been telling stories of the types of felons and criminal activities which my bill, S. 2543, would address. Today, I want to tell about a fugitive by the name of Julio DeParis; his story demonstrates the need to pass the bail bond reforms included in S. 2543.

DeParis is a 24-old native of Colombia who was arrested in Miami on November 11, 1980, for drug trafficking. He was in the country illegally at the time. At the time of his arrest DeParis had in his possession 260 pounds of cocaine. This quantity has an estimated street value of approximately $12 million. I think you can tell from this figure that DeParis was no small fry in the drug world. In fact, drug enforcement administration agents had already linked DeParis with a trafficking ring which was responsible for importing and distributing mass quantities of cocaine throughout the United States. Needless to say, D.E.A. agents were pleased to apprehend him; he was a link which might have led them to the rest of the ring. Unfortunately, this was not to be the case.

After the arrest, bail for DeParis was initially set at $5 million. Mr. President, that is not an unreasonable amount for a person who is part of a major drug trafficking ring and who had $12 million worth of cocaine in his possession. However, DeParis' lawyers were able to get his bail reduced, first to $750,000 and then to $400,000. Upon arranging for this lower sum, DeParis posted the required amount, walked out of jail, and he has not been seen since. DeParis is now listed as a fugitive. I might add that police believe him to be armed and very dangerous.

Mr. President, this case presents a clear example of where our bail bond laws simply have not worked when it comes to drug traffickers. With the enormous profits, drug traffickers are able to use bail as their ticket to freedom. In south Florida alone, Mr. DeParis joins some 300 cases of such fugitives. We have to put a stop to this revolving door which puts felons back on the streets.

Title 2 of S. 2543 addresses the issue of bail bond reform, particularly in regard to drug traffickers who have been arrested. It reverses the normal presumption that a person arrested on drug charges will go free on bail if that person falls into one of several categories. One of those categories covers illegal aliens. For such persons, bail would not be available unless the person arrested could show special reasons justifying release on bail prior to trial. If this provision were in place today, Julio DeParis might still be in Federal custody. After all, DeParis is an illegal alien.

Mr. President, we are all familiar with the link between drugs and crime. Every time we allow shortcomings in our present laws to put drug smugglers who have been arrested back into the street, we allow people like Julio DeParis to continue their criminal activities. We can change the law and make sure that people like DeParis are put behind bars where they belong. Both S. 2543 and S. 2572 contain bail reform provisions as well as other provisions aimed at fighting crime. We can fight crime by passing these bills. But only as few as 46 days remain in this session. Unless we act soon, we shall lose the chance to fight crime.

Mr. President, I yield to the Senator from Georgia.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Georgia is recognized.

Mr. NUNN. I thank my colleague from Florida.

Mr. President, today, as for the last month, two strong pieces of anticrime legislation remain pending on the Senate Calendar. The Congress hesitates to act to defend the American public from the lawlessness which daily plunders our society. By contrast, the criminal underworld is not so reluctant to act, and act boldly, to defend itself from law enforcement efforts that are made.

Threats, extortion, violence—none is too drastic a weapon to use against the criminal justice system. Consider the case of Richard Cloud, a private investigator who was brutally shot to death in the doorway if his Tampa, Fla., home on October 23, 1975. Cloud had been well known and feared in criminal circles, both as a private investigator and earlier as a Tampa police officer. At the time of his death, he was working closely with the Tampa U.S. attorney's office in preparation for the trial of a Federal counterfeiting case where he was to be a principal Government witness. He had not yet been subpenaed at the time of his death. Althouth not employed as a Federal law enforcement officer, Cloud had spent many hours without pay assisting Federal authorities in numerous major criminal investigations over the preceding 5 years.

Outraged by Cloud's death and suspecting a connection to the pending counterfeiting case, Federal authorities were at first frustrated by the lack of suitable Federal statutes under which to proceed. Since he was not technically a protected Federal law enforcement officer nor a subpenaed Federal witness, Federal obstruction of justice statutes did not specifically cover Cloud's murder. Murder alone, of course, was beyond the reach of Federal statutes. Federal authorities turned to the complex Racketeer-Influenced and Corrupt Organizations Act (RICO) in the hope that the evidence would establish the murder as but part of a pattern of racketeering activity.

Although it was very difficult, the evidence proved precisely that, but only after expending a year's worth of investigative efforts and resources by both Federal and State authorities. The massive investigation required the full-time participation of some 25 Federal agents throughout the year, supplemented by part-time and State assistance. The FBI; the Bureau of Alcohol, Tobacco, and Firearms; the Drug Enforcement Administration; the Secret Service; the Florida Department of Law Enforcement; the homicide division of the Tampa Police Department; and the Hillsborough County Sheriff's Office all contributed investigative manpower in the case. Federal prosecutive resources were jointly supplied by the U.S. attorney's office and the Justice Department's Organized Crime Strike Force.

As a result, 14 individuals, including numerous known organized crime members and associates, were indicted on Federal charges, including RICO. The indictment described a pattern of racketeering encompassing contract murder, bombing, narcotics, counterfeiting, and robbery. Cloud had been only one of five individuals on whom murder contracts had been issued, two of which were Federal prosecutors. In these cases, murder attempts had been made via automobile bombings. Two individuals were injured as a result, though Cloud was the only person actually killed. After a 6-week trial, nine individuals were convicted and two acquitted. Two individuals had pled guilty prior to trial; one, the driver of the getaway car in Cloud's murder, testified as the Government's chief witness. The man who pulled the trigger on Richard Cloud hanged himself in jail prior to the Federal trial, but after pleading guilty to State charges.

One defendant remained a fugitive at the time of trial. Subsequently apprehended by Federal authorities, he killed himself in jail just prior to his scheduled trial.

By passage of the Crime Control Act of 1982, sponsored by Senator CHILES, myself, and others, Congress can vastly improve the range of statutory tools available to prosecute cases such as Richard Cloud's murder. In such complex investigations, the State must be able to depend on the unfettered assistance of Federal law enforcement resources. Our bill extends Federal obstruction-of-justice statutes to cover potential witnesses and informants, not protected by currrent law. It specifically designates contract murder or murder for hire as a Federal criminal offense. The Federal prosecutors in the Cloud case will tell you that, had these statutory offenses been available to them, the investigation and trial of the case would have been much simpler and required far less expenditure of investigative resources. By enacting these proposals, we can give Federal authorities the investigative jurisdiction needed to fully and effectively confront organized criminal activity as well as the threats and violence which they will unquestionably encounter in doing so.

Mr. President, I yield back the remainder of the time of the Senator from Florida.

## ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, which will last no longer than 30 minutes, during which Senators may speak for 5 minutes each.

In my capacity as a Senator from the State of Washington, I suggest the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## HUMANITARIAN ASSISTANCE FOR THE PEOPLE OF LEBANON AUTHORIZATION

Mr. PERCY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 6631, a bill to authorize humanitarian assistance for the people of Lebanon.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6631) to authorize humanitarian assistance to the people of Lebanon.

There being no objection, the Senate proceeded to consider the bill.

Mr. PERCY. Mr. President, I understand that Senator PELL, who has worked closely with me as ranking minority member of the Foreign Relations Committee, is on his way and should be in the Chamber momentarily. I must return immediately to a hearing we are conducting on the reorganization of the Energy Department for the administration.

The bill we are introducing this morning offers us a chance to help alleviate the human suffering of thousands of people in Lebanon. Three times in less than a decade that troubled country has seen its citizens killed, wounded, and made homeless by civil strife and military actions. The human costs and physical damage caused by the current military activities in Lebanon appear to be the worst to date.

This bill authorizes $50 million in fiscal year 1982 funds to help with relief, rehabilitation, and reconstruction efforts in Lebanon. Yesterday the House of Representatives passed this legislation by a vote of 334 to 70. The Senate Committee on Foreign Relations had prepared its own legislation, which offered several additions to the House bill which I believe were quite useful. However, in order to expedite passage of legislation to help start the funds flowing to Lebanon, my colleagues and I have agreed to substitute the House-passed bill for our own.

The administration has only requested an additional $20 million at this time. But that $20 million was designed to meet immediate relief and rehabilitation efforts. The committee believed that we should provide adequate funds to help start with reconstruction programs as well, assuming all immediate relief efforts can be met. Following the internal violence in 1975-76, the United States provided around $75 million in assistance in the fiscal years 1976-78. That is around $120 million in current dollars. Therefore, I believe that the $50 million is clearly a conservative estimate of what the long-range needs for U.S. help will be.

I should note that we will try to take care of the committee's additional provisions in other ways. One amendment had provided for a series of reports on our assistance programs in Lebanon. These reports would assure that Congress would receive adequate information on how relief efforts were progressing and give us advance notice as to whether there would be future needs for additional U.S. assistance. It is my understanding that Chairman ZABLOCKI has kindly agreed to send Secretary Haig a letter indicating that the House of Representatives would likely have supported that provision in a conference and requesting him to treat that provision as if it had passed. Senator ZORINSKY had introduced an amendment expanding the authority of the President to transfer funds from other assistance accounts into the disaster assistance account in emergencies such as we face in Lebanon. I believe that amendment can be considered when the 1983 foreign aid bill comes to the floor.

Mr. President, the bill was unanimously supported by the Foreign Relations Committee in our meeting yesterday.

I urge my colleagues to pass this provision by a wide margin. This is a time when the Lebanese need both our moral and financial support. This legislation goes a long way toward providing both.

As we have decided to support the House bill in order to expedite the legislative process, there will not be a committee report on our own bill. Therefore, on behalf of Senator PELL and myself, I wish to introduce into the RECORD a set of comments which reflect concerns of the committee. These remarks will help establish the legislative record.

I ask unanimous consent to have them printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COMMITTEE COMMENTS

The Committee is greatly concerned at the loss of life and the human suffering in Lebanon. Reliable information on casualties and the level of destruction may not be available for some time. In fact, while the Committee was meeting on June 21 and 23, the violence still continued in Beirut. Nevertheless, it appears that several thousand civilians have been killed and wounded, and tens of thousands have been affected in some manner by the fighting. Many who have fled from high risk areas are temporarily without shelter, and many others have had their homes destroyed or severely damaged.

Under current circumstances, it is clearly impossible to make very precise estimates as to the ultimate costs involved to meet immediate relief needs in Lebanon and to provide future rehabilitation and reconstruction when the fighting ceases. However, it would appear that damage to housing and infrastructure will prove to be greater than that which resulted from the armed clashes in 1975-76. At that time the United States provided approximately $75 million in economic assistance to Lebanon in fiscal years 1976-78. That would amount to $120 million in 1982 dollars.

The Administration has already committed $5 million in existing resources in Lebanon—$3 million from PL 480 Title II Food for Peace funds and $2 million from the AID Disaster Assistance Account. The President intends to obtain an additional $10 million from reprogramming additional funds. The Committee is concerned that these funds, with an additional $20 million requested in the supplemental, will still be well below an equitable U.S. share in helping to meet relief, rehabilitation, and reconstruction requirements in Lebanon. The Committee therefore decided to authorize $50 million in fiscal year 1982 funds for these purposes.

The Committee believes that first priority for use of these funds should be to meet immediate human needs—food, medicine, shelter, and water. It recognizes that in many cases this will require rehabilitation of some infrastructure. Water and sewer systems must be put back in working order to avoid typhoid, cholera, dysentery. Generators and electrical systems must be restored so that water pumps can operate. Transport systems must at least be in sufficient repairs to allow food and other emergency supplies to enter Lebanon and reach those in need. However, the Committee certainly would not want to see any situation where priority were given to buildings over people. Allocation of funds for relief should not be delayed while plans are being formulated for rehabilitation and reconstruction.

The Committee agreed to authorize a larger sum of money than requested by the Administration so as to assure that all immediate relief requirements could be met as soon as possible. However, as the emphasis on the activity in Lebanon shifts from relief and rehabilitation to reconstruction, the Committee will wish to monitor the type of programs entered into by AID quite closely. This is a major reason for the reporting requirements which the Committee desires.

The Committee recognizes that the President has the authority under section 492(b) of the Foreign Assistance Act to transfer funds from the economic assistance accounts to the disaster assistance account. Later appropriations could reimburse the accounts from which funds were taken. Should AID use up available funds for relief efforts before the Congress acts on this legislation, the Committee would urge the President to use that authority.

It is the hope of the Committee, however, that Congress will act expeditiously to pass an authorizations bill and a companion appropriations bill, so that use of such reprogramming authority will not prove to be necessary. Such a transfer would occur late in fiscal 1982, and could disrupt plans for projects in a number of countries in the Caribbean, Sub-saharan Africa, and South Asia. Unnecessary administrative costs could be incurred in delaying projects on ice or even breaking current contracts. As at least $20 million is likely to be made available for immediate relief efforts without use of this programming authority, the Committee believes it should be possible for the Congress to act before reprogramming is needed.

The Committee applaudes the commitments given by the Administration witnesses to channel as much assistance as possible through private and voluntary agencies. Several of these agencies have experience and resources in the area, and are conducting programs or gearing up to do so. The Committee would also encourage support of UNICEF's activities in the relief effort, which are already underway.

Mr. PERCY. Mr. President, before yielding to my distinguished colleague, I would like to just comment on the tragedy that unfolds before us. Lebanon is undergoing one of the most tragic events that has happened in our current history. It is a country that has been torn apart by all kinds of factions.

Suffering and misery have been inflicted on tens of thousands of homeless, and thousands of casualties have occurred. We do not know precisely the number of casualties, frankly. We see various estimates. Yet here we see, on the one hand, U.S. arms being used and, on the other hand, we are immediately, on an emergency basis, adopting a program of $50 million for humanitarian assistance and help, to assist those who have been injured or displaced.

I hope and trust that the policy of the administration is that we not further the fighting, that we not have an invasion, a takeover by armed forces moving into the city of Beirut to spread the conflict and the disaster. I trust that U.S. policy is further that we resort now to diplomacy, that we go back and recede to the target goals and lines that the Israelis themselves established and said they would adhere to. We must work strenuously now to exercise our leadership and move together with those in the Arab world who want peace, and Israel, to find a basis, together with the Government of Lebanon, for working for and finding a peaceful solution to this tragic problem before more lives are lost.

Prime Minister Begin once described to me that, as he lay on his bed with an injury, he could visualize the thousands of deaths the Israelis had suffered as a result of war and the tens of thousands of wounded.

I feel certain he must be able then to commiserate with the innocent people who have nothing to do with this conflict and are just caught in the crossfire.

We ought to do everything we can to help avoid further loss of life. I do not know what the ultimate cost will be and what portion and share the United States will feel morally obligated to participate in or will feel we must help, along with other countries. But it is a tragic course on which we are moving. Certainly we have a duty and a responsibility to move on this bill now. I again commend the bipartisan humanitarian sense always shown by my distinguished colleague, Senator PELL from Rhode Island, the ranking minority member on the Committee on Foreign Relations, who is a humanitarian and who has seen the need to move with swiftness and dispatch, fully supporting on a bipartisan basis not only the $20 million the administration has asked for but a higher level of $50 million which we feel is essential, and will join with me in the report language for comments endorsed now by the chairman of the House Committee on Foreign Affairs, that will call for reports to keep us abreast of the expenditure of those funds and the nature and extent of the damage.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I join with our excellent chairman, the Senator from Illinois, in urging our colleagues to give swift passage to H.R. 6631, the emergency aid authorization for Lebanon.

When our committee met to consider the administration's request for $20 million for emergency assistance, Senator TSONGAS and I introduced an amendment which increased the authorization from $20 million to $50 million. I am glad to say the amendment was accepted by the committee unanimously.

As the Senate begins its consideration of the House-passed measure, I am pleased to note that the bill contains the higher amount for relief and rehabilitation assistance in Lebanon.

Mr. President, I take particular interest in this legislation because I was in Lebanon a scant 48 hours before this current round of fighting began. In fact, I was in southern Lebanon, in Tyre, which was the center of the military activity that shortly followed. The reports I have received of the destruction of lives and property sadden me dreadfully.

In a sense, the tragedy of Lebanon represents the failure of the international community to forge a modus vivendi that could be acceptable to Israel and her neighbors. We can only hope the current conflict which rages on just as we speak here this afternoon might ultimately produce a Lebanon that is controlled by the Lebanese themselves, not controlled by the PLO or by the Syrians or by the Israelis but by the Lebanese themselves.

In the interim we must move forward with this emergency legislation which will allow our Government to provide food, shelter, and medical supplies through private voluntary organizations such as the Catholic Relief Services, and through international organizations such as the International Red Cross and UNICEF.

There may be disputes concerning the numbers of wounded, the numbers of homeless, and the numbers of dead, but surely there can be no doubt that the need is immediate. We must act now to insure that there is no delay in providing humanitarian assistance for Lebanon.

Mr. PERCY. Mr. President, I thank my distinguished colleague for his comments.

### LEBANON, ISRAEL, AND THE MIDDLE EAST

Mr. MITCHELL. Mr. President, I rise in support of the resolution which provides for humanitarian assistance to the suffering people of Lebanon.

I believe it an appropriate time to make some additional comments regarding that situation and the necessity for action, to not only care for those who have been injured, made homeless, and lost their property, but to see to it that the same circumstances do not occur with respect to others.

Mr. President, the agony of Lebanon continues.

It must end. It is a standing reproach to the civilized world that this Nation has been militarily occupied for 7 years with no protest, no action, and virtually no concern about the devastating impact of foreign occupation on the lives of the Lebanese people and the fabric of what was recently the only democratic society in the Arab world.

By coincidence, several days ago Members of the Senate and House commemorated Captive Nations Day, which marks Soviet domination of the three Baltic republics. The annual congressional remarks on Captive Nations Day are an offering to the ghost of Western policy: That policy which claims as its principle that national borders cannot be permanently changed by force. Who remembers the captive nations today?

For 7 years Lebanon has been just such another small nation, also conveniently forgotten by Western civilization. Lebanon's plight has evoked ritual denunciation and little else.

Today, because it has been invaded, and only because it has been invaded, there is no need to ask who remembers Lebanon.

But our commonsense ought to have told us that we could not ignore festering wounds in the fabric of international society and expect them to vanish. And our common humanity ought to have told us that allowing a defenseless nation to become the staging ground for foreign military ambitions was not only politically foolish, but morally wrong. Yet, Lebanon and her people have occupied in the Middle East much the position that the captive nations occupy in Eastern Europe—a convenient propaganda vehicle, a platform for speeches, and an excuse to do nothing.

The world has been content to allow Lebanon to be the cockpit for the smoldering conflicts in the Middle East. We have given lipservice to the integrity of the country, but we have turned a blind eye to the reality. Some 30,000 Syrian troops have occupied the northern section of the nation, policing the capital of Beirut and giving tangible form to Syrian expansionist goals. Also 15,000 to 20,000 Palestinians have used southern Lebanon as a staging ground to turn themselves from guerrilla fighters and terrorists into a military force in their own right. Private armies have sprung up in western Beirut among the different Moslem groups there. Private Christian militias have been aided by Israel in the south and have maintained themselves to the north of the capital.

We should not be surprised that this unstable edifice of forces has now been unbalanced.

There was nothing inevitable about the Israeli assault on Lebanese territory. But the inherent instability that was allowed to persist for so long contained within itself the fissures of its own collapse.

This is not a recent development. It is not a situation we confront for the first time this month. It is a situation and a condition which began with the Jordanian expulsion of the PLO in 1970, accelerated in the devastating civil war of 1975, and has been a fait accompli since 1976. For 7 years our world has tacitly chosen to ignore it. We have chosen to maintain the fiction of an independent Lebanese nation. What we have almost permitted to occur is the virtual dismemberment by force of a nation which was once the pride of the Eastern Mediterranean, a center of culture, of civilization, and of prosperity.

I am deeply distressed at the human suffering that has followed in the wake of this war. The thousands of lives lost, the thousands of civilians wounded, the homes destroyed, the businesses and workplaces ruined—surely these are proof, if further proof were needed, of the senseless destruction of war.

I grieve for the dead and dying innocent men, women, and children of Lebanon, as well as for the casualties among the combatants.

The nations of the world must, surely, recognize that the futility and the horror of war cannot continue to be ignored just because the destruction lands on someone else's home, or kills someone else's children.

The agony that Lebanon endured for the last decade was a man-made trauma, not a natural disaster. It was human action and human will which allowed some to gaze on the mountains of Lebanon and see an enlargement of their political power. It was human failure that let the rest of us look on the destruction of a society and see a geopolitical safety valve.

When will we cease to treat other people's lives as defenses against our lack of political will? Are we to tell the people of Lebanon today that their plight is the result of political, geographic forces over which we have no control? Will we use the deaths of Lebanese people and the destruction of Lebanese homes as another counter in the never-ending big power struggle?

Or will we, this time, try to resolve the conflict so as to prevent future conflicts?

I believe the choice is ours to make. I do not believe geographical or political or historical forces must inevitably compel people to slaughter each other. I do not accept that outcome.

It is a curious reflection on the realities of our world that in this war, the major powers are little better than bystanders. Our Nation has insisted on the Israeli acceptance of a cease-fire. We have insisted that Beirut not be invaded. The Soviets have sent a general to Damascus to confer with their Syrian allies, and they have claimed the usual generous interpretation of Soviet border interests in a note to the Israelis.

It is clear that the Soviets are setting the stage, in traditional fashion, to shore up their prestige among the Arabs, to reassure the PLO that its source of arms will not dry up, and to maintain the fiction that Israel is the only threat to peace in the Middle East.

The danger, in my view, is that if we permit diplomacy-as-usual to reassert itself in settling the outcome, we may emerge with nothing but a reversion to a modified status quo ante—a buffer zone to protect the Galilee, no meaningful reduction in the Syrian presence, and no meaningful strengthening of a viable Lebanese authority either. Such an outcome will spell the beginning of the next war as clearly as the civil war of 1975 laid the groundwork for this one.

But we have, as well, an opportunity to work for and achieve a different outcome—the revival and reestablishment of a truly independent and democratic Lebanon, with full control over her own territory, with full control over her duly authorized armed forces, and without the destabilizing presence of professional terrorists in her countryside towns. Such an outcome would bolster the cause of Middle East peace. It is the goal toward which we should direct our efforts.

What is needed is a cease-fire, a real cease-fire. The fighting, the killing of innocent civilians, the destruction of property must end. There then must be the final withdrawal of all foreign troops from Lebanese soil—Syrian troops, PLO troops, and Israeli troops alike, without distinction. No nation can live or should be asked to live with what is, in effect, an occupation army within its borders. The fiction of an Arab deterrent force must end and the Syrians must return to Syria.

Israel must abide by her stated commitment that she covets no Lebanese territory and withdraw to her own borders. The ultimate Israeli goal of secure borders, recognized and respected by her neighbors—a goal which the United States supports, a goal which I support—cannot be achieved in a climate of violence, mistrust, and destruction. Israel's ultimate political security cannot be assured by war.

The PLO cannot remain in Lebanon. No nation should have to play unwilling host to hundreds of thousands of people who have no allegiance to its authority, and who brook no interference with their goals and tactics.

This administration has said it will make international terrorism one of the central aspects of its foreign policy. Lebanon has been the unwilling host of the world's largest terrorist training camps for years. If our concern about international terrorism is

to be expressed in practice, the elimination of such an enclave is essential. Terrorism seeks to win wars on battlefields made of innocent people. It is not now and has never been a legitimate or just way to pursue either a military or political goal. It is long past time that we ceased to abide by the fiction that demands backed by terrorist actions have any claim on the international community.

I want to see an end to the diplomatic fictions which have allowed Lebanon to be dismembered and, now, invaded.

I demand for the Lebanese people the same right to peaceful existence that Israel has presented to the world for three decades, the same right to independence and self-determination that the Palestinians claim for themselves, the same peace that every Arab nation has claimed as its goal, the same freedom and justice that all peoples the world over long for.

It is an outrage that a nation whose goal and practice has been to live at peace with others should herself become the battleground for the wars of others.

There must be a successful diplomatic effort to reinstate a soverign, independent, and democratic Lebanon in the wake of the ruins. I welcome the initiative of President Sarkis in seeking to set the groundwork for such an outcome with the Commission on National Salvation. No final battle for political power or ultimate control over Lebanon can be won or will be won while the nation is occupied by three foreign armies. But Lebanese national leaders of all groups should seize the current opening to forge again the balance and the accommodations that once made Lebanon an oasis of peace and prosperity in the Middle East.

It would be tragic if the violence and dissension of foreign occupation were now to erode the Lebanese ability to recreate their nation. It would be an invitation to foreign influence, yet again, and a disheartening loss of the tolerance and spirit that infused Lebanese society and set an example to the rest of the Middle East in the past decade.

For this one time, the leaders of Lebanon, the leaders of other nations, and the people of the world ought to look directly at and recognize the human casualties of war. The maimed children of Beirut, the dead children of Sidon, the orphaned children of Tyre, who are now homeless—none of them had any hand in creating the situation that has led to their death, injury, and destruction.

None of the people lying bleeding and dying in Lebanese hospitals today are of less value than the political leaders who will soon help determine their ultimate fate. It is time, and well past time, that the political leaders of the contending parties as well as those of the international community recognized that reality.

If the world's political leaders cannot see their own homes and their own families and their own children mirrored in the ruins of Lebanese towns, Lebanese villages, dead and dying Lebanese children, they will forfeit their claim to their positions and to the allegiance of the people who are doing the bleeding and the dying.

As an American of Lebanese descent, Mr. President, I urge in the strongest possible terms that we not miss this opportunity to work for a restoration of stability in Lebanon, and a beginning to the end of that small nation's agony.

If ever an opportunity existed to do the right thing it is now. And if ever an opportunity existed to demonstrate, in practice as well as with rhetoric, our support for peaceful resolutions to conflicts, this is it. The United States and the free world have everything to gain and nothing to lose by vigorously and imaginatively seizing this chance to restore to the free world a nation which intransigence, hatred, and violence has almost destroyed.

### AID TO LEBANON

● Mr. KENNEDY. Mr. President, today the Senate is considering an urgent authorization of $50 million in emergency relief and humanitarian assistance for Lebanon. Americans all across our country are shocked by yet another tragic outbreak of fighting in the Middle East. And as happens all too often, it is the innocent who have suffered most. Today it is Lebanon which has paid the heaviest price for failure to find a just and lasting peace in the Middle East.

Reports reaching us indicate that hundreds of thousands of people have been killed, wounded, or displaced by the most recent fighting. Families are shattered and divided. As a result of the intensity of the fighting there has been massive destruction. Towns have been razed; whole villages were destroyed. Farms and fields have been ravaged. For many Lebanese their homes are only memories. Throughout the area of the fighting the basic infrastructure that supports life is gone. Water, electricity, sanitation, roads, bridges, hospitals—all are destroyed. The plight of those who remain alive is critical.

Mr. President, there is no question as to the urgency of this humanitarian assistance to the people of Lebanon. The needs of tens of thousands of wounded and homeless cannot be ignored, and the cries for help from those attempting to provide emergency assistance must not go unanswered.

Already, the International Committee of the Red Cross in Geneva has issued an urgent appeal for over $20 million—to which only $4 million in cash or kind have been received to date. In addition, the private voluntary and church agencies, who are helping people on all sides of the Lebanese conflict, have totally inadequate resources to meet massive medical and relief needs.

Under the terms of section 491 of the Foreign Assistance Act, I urge the administration to allocate a substantial portion of the funds authorized by this bill to support the work of these agencies, especially the private American voluntary agencies, such as Catholic Relief Services and Church World Service, and to support the other international and humanitarian agencies working in Lebanon—especially the ICRC and the American University of Beirut's hospital. These agencies are literally on the firing line, and in direct contact with the people in need, and their programs must be supported by this legislation.

Mr. President, approval of this assistance implements the policy toward Lebanon which I introduced in the Senate last year and which was incorporated into law in the International Security and Development Cooperation Act of 1981. Section 715(5) of that act calls for "generous international support for relief, rehabilitation and humanitarian assistance for Lebanon • • •" Last year, the Congress approved my amendment to allocate $5 million in humanitarian aid to Lebanon. I am very pleased that the Senate has now moved rapidly to provide this additional assistance, so badly needed at this time.

Unquestionably, the events of recent weeks highlight the urgent need to provide humanitarian assistance; but, even more importantly, these events underscore the compelling need to reach a comprehensive and permanent peace in the Middle East. Last week I spoke on this question and I would like to reiterate today that there is a new moment of opportunity in the Middle East to restore to Lebanon and to the Lebanese people their independence, sovereignty and territorial integrity. It is the moment to implement the entire policy on Lebanon which was set forth last fall in law.

Let me read section 715:

### LEBANON

SEC. 715. It is the sense of the Congress that the Government of the United States should continue to support diplomatic efforts to resolve the current crisis in Lebanon, and to pursue a comprehensive and coordinated policy in Lebanon guided by the following principles:

(1) maintenance of an effective cease-fire throughout Lebanon;

(2) resolution of the issue of the Syrian missiles deployed in Lebanon;

(3) freedom, security, and opportunity for the Christian and all other Lebanese communities, including the Moslem, Druze, Armenian, and Jewish communities in Lebanon;

(4) reaffirmation of the historic United States-Lebanon relationship and strengthening the longstanding commitment of the United States to the independence, sovereignty, and territorial integrity of Lebanon, without partition, free from terrorism and violence, and free to determine its future without Soviet or other outside interference;

(5) generous international support for relief, rehabilitation, and humanitarian assistance for Lebanon, particularly for those Lebanese citizens who have suffered from the terrorism and violence of recent events;

(6) restoration of Lebanon's sovereignty free from outside domination or occupation; and

(7) support for a free and open national election.

I urge the administration to press ahead for reconciliation between the various Lebanese factions. I hope all Lebanese will join together to restore the authority of the central government so it can once again assume responsibility for security throughout Lebanon, and so Lebanon can once again assume its traditional place as home for all communities—Christian, Moslem, Jews, and Druze. The world needs a free, secure, democratic and prosperous Lebanon, with close ties to the West, and I hope that later this year we will see Lebanese democracy very much alive as the Lebanese people go through the process of electing a new President.

I urge the administration to press for the withdrawal of all forces from Lebanon. The Government of Israel has made clear that it desires not one inch of Lebanese territory, and I welcome this assurance. The Syrians who sent forces into Lebanon 6 years ago, ostensibly to restore peace, have in fact been an occupation force and have undermined the Constitution of Lebanon, and intimidated both its government and its people. I need only mention how this so-called peace force almost leveled the Christian city of Zahle. It was the Syrian introduction of SAM missiles into Lebanon last year that led them to heightened tension and a new round of fighting in Lebanon. All Syrian forces must be withdrawn from Lebanon in accordance with the Lebanese Government request.

The PLO must be disarmed and the "State Within a State" dismantled. Never again should Lebanon be a base for terrorism and murder. Never again should the Government of Lebanon be intimidated by an organization such as the PLO which was a guest in the country.

In closing, I would like to emphasize again that now is the time to restore Lebanon to its proper place as a truly independent and sovereign state free from outside occupation and interference. We must use all our available resources in this important effort. We must stand by our Lebanese friends in this dark hour—to help them meet the critical humanitarian problems that now exist—and we must stand with them in their efforts to rebuild a new, free and prosperous Lebanon. And our ultimate goal must be a true and enduring peace for all who live in the Middle East.●

AID TO LEBANON

Mr. MOYNIHAN. Mr. President, I rise in support of the legislation now before the Senate. The pending bill would authorize $50 million in humanitarian relief assistance for the people of Lebanon in addition to $15 million the administration has announced it will reprogram from other areas.

I commend the members of the Foreign Relations Committee for their prompt action and I urge unanimous passage of this legislation, that we may supply immediate disaster aid to the victims of the conflict now raging in Lebanon.

Since 1975, when Lebanon was overrun by the Syrian Armed Forces, following in the path of the PLO, that democratic, pro-Western nation has been torn asunder. The life of the Lebanese people has been disrupted as have few in the world in recent years.

The time is long past for the United States to assume a leading role in the reconstruction of a pluralist, democratic Lebanon—free of all foreign occupation.

At the time when we could have had greatest effect, in 1975, this country was still reluctant to engage in the defense of its interests abroad. I was ambassador to the United Nations when Lebanon began to come apart. Accordingly, it was my sad duty to have to tell the Lebanese ambassador the United States would not be able to do anything for his country—despite the utter violation of the sovereignty and liberty of a kindred democracy.

Recent tragic events have presented us with new opportunities to build peace in the region, even as we restore democracy and stability to Lebanon.

Humanitarian assistance is the first step—and I trust the Congress and the President will expedite implementation of the aid program—but is is only the first step.

Let us hope we shall muster the courage to follow through to successive measures necessary for the reconstruction of Lebanon.

Mr. SPECTER. Mr. President, I rise today to support the authorization for $50 million in disaster relief to the people of Lebanon.

The recent fighting in Lebanon has exacted a great toll on Lebanon's civilian population. It has been most unfortunate for the people of Lebanon that the PLO and Syrian forces have occupied Lebanon and that Israel found it necessary to drive out the terrorists who were attacking Israelis living near the Lebanese border.

This aid, so desperately needed, will enable the Lebanese people to receive medical aid and food as well as insure the restoration of essential services and the normalization of daily life. Hopefully, this assistance will be a first step to peace in Lebanon and the reestablishment of Lebanon's sovereignty.

The people of Lebanon have suffered under the threat of foreign domination; over 60 percent of the country has been occupied by PLO and Syrian forces. Without a stable, viable government, the Lebanese people have been unable to resist foreign intervention. In 1970, after King Hussein expelled the PLO from Jordan, the Lebanese were too weak to resist them. In 1975, Syria sent troops into Lebanon and bloody civil war ensued—killing thousands and leaving the small country in ruins. Lebanon has never fully recovered from this devastation.

Already, the Jewish Joint Distribution Committee, the International Red Cross, the World Council of Churches, and the Catholic Relief Services have begun to assist the Lebanese people.

The debate on U.S. policy in the Middle East will be detailed and extended and I realize that foreign aid may not be popular at a time of fiscal austerity here at home. The American people, I believe, will generously offer this disaster assistance to the people of Lebanon who are in such dire need. It is my view, however, that these funds must not be redirected from other places of need, particularly the allocated foreign assistance funds necessary for the survival of Israel, our only democratic ally in the Middle East.

The bipartisan nature of the support for this humanitarian assistance to Lebanon reflects the American commitment to the assistance of people in need.

Mr. PERCY. Mr. President, before asking for adoption I want to clarify one particular point. There is a great distinction in all of our minds between the PLO, which is in part a terrorist organization, and the civilian casualties that have occurred. This legislation is in support of the civilians living in Lebanon who have suffered the tragedy of a war in which they really were not themselves involved and which they had no part of. War often takes unintended victims, and they can be aided by this legislation.

Mr. President, I ask for third reading of H.R. 6631.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to be read a third time and was read the third time.

The PRESIDING OFFICER. Is there further debate? If not, the question is, Shall the bill pass?

The bill (H.R. 6631) was passed.

Mr. PERCY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER OF BUSINESS

Mr. BAKER. Mr. President, it is my information that the House has not yet acted on the supplemental appropriation veto message or on a subsequent bill.

That is still the prime business of the Senate for today and, therefore, we must await further action by the House.

It is still my intention at some point—not now, but at some point after conferring with Senator HELMS, Senator HUDDLESTON, Senator EAGLETON, and others—to ask the Senate to turn to the consideration of an agriculture bill dealing with tobacco. Once again, I am not doing that now, I am simply putting Senators on notice that later I will.

## EXTENSION OF TIME FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, since it appears there is nothing else cleared for action at this time, I ask unanimous consent that the time for the transaction of routine morning business be extended to not past the hour of 2:30 p.m. in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COHEN). Without objection, it is so ordered.

## QUORUM CALL

Mr. STEVENS. Mr. President, I ask that each of the cloakrooms advise their Members that we are about to be honored with a visit by distinguished members of the European Parliament. I ask for a live quorum call and ask that it go rapidly.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 37 Leg.]

| | | |
|---|---|---|
| Biden | Lugar | Stevens |
| Boschwitz | Mattingly | |
| Cohen | Pressler | |

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of the absent Senators.

The bill clerk resumed the call of the roll, and the following Senators entered the Chamber and answered to their names:

| | | |
|---|---|---|
| Abdnor | Goldwater | McClure |
| Andrews | Gorton | Melcher |
| Baker | Grassley | Murkowski |
| Brady | Hatfield | Nickles |
| Burdick | Hawkins | Pell |
| Byrd, Harry F., Jr. | Heflin | Percy |
| | Helms | Quayle |
| Cochran | Hollings | Sarbanes |
| D'Amato | Huddleston | Sasser |
| DeConcini | Inouye | Schmitt |
| Dixon | Jackson | Simpson |
| Dodd | Jepsen | Specter |
| Domenici | Johnston | Stafford |
| Eagleton | Laxalt | Stennis |
| East | Mathias | Thurmond |
| Garn | Matsunaga | Warner |

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Missouri (Mr. DANFORTH), the Senator from Alabama (Mr. DENTON), the Senator from Kansas (Mr. DOLE), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Utah (Mr. HATCH), the Senator from California (Mr. HAYAKAWA), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New Hampshire (Mr. HUMPHREY), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Wisconsin (Mr. KASTEN), the Senator from Oregon (Mr. PACKWOOD), the Senator from Delaware (Mr. ROTH), the Senator from New Hampshire (Mr. RUDMAN), the Senator from Idaho (Mr. SYMMS), the Senator from Texas (Mr. TOWER), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. INOUYE. I announce that the Senator from Montana (Mr. BAUCUS), the Senator from Texas (Mr. BENTSEN), the Senator from Oklahoma (Mr. BOREN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Arkansas (Mr. BUMPERS), the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Nebraska (Mr. EXON), the Senator from Kentucky (Mr. FORD), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Michigan (Mr. LEVIN), the Senator from Louisiana (Mr. LONG), the Senator from Ohio (Mr. METZENBAUM), the Senator from Maine (Mr. MITCHELL), the Senator from New York (Mr. MOYNIHAN), the Senator from Georgia (Mr. NUNN), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Arkansas (Mr. PRYOR), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Michigan (Mr. RIEGLE), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Nebraska (Mr. ZORINSKY), and the Senator from Florida (Mr. CHILES) are necessarily absent.

The PRESIDING OFFICER. A quorum is present.

## VISIT TO THE SENATE BY MEMBERS OF THE EUROPEAN PARLIAMENT

Mr. STEVENS. Mr. President, we were honored today with the presence of a distinguished delegation from the European Parliament. As Senators are aware, the Members of Parliament are elected from the Member States of the European Community. Those who are visiting with us today are Members of the first European Parliament to be selected in a direct popular election.

I should note that one of the most significant of the responsibilities of the Parliament is the consideration of the European Community's budget. It is my understanding that their consideration of their budget is every bit as energetic and confrontational as our own, and I suspect we have much in common on the issue.

I thank the Members of the Senate who came to the floor to welcome these visitors to our Chamber. I trust that their visit here and in the House of Representatives has been a constructive and useful experience for both the European Parliament and Congress.

Mr. President, on behalf of the majority leader, I ask unanimous consent that the names of the Members of the delegation from the European Parliament be printed in the RECORD.

There being no objection, the names were ordered to be printed in the RECORD, as follows:

GUESTS, DELEGATION FROM THE EUROPEAN PARLIAMENT

Mrs. Eva Gredal, Chairman (Socialist, Denmark).

Mr. Vincenzo Glummarra, First Vice-Chairman (European People's Party, Italy).

Mr. Rene Piquet, Second Vice Chairman (Communist, France).

Mrs. Simone Veil (Liberal, France).

Mr. Ernest Glinne (Chairman, Socialist Group, Belgium).

Mr. Mario Zagari (Socialist, Italy).

Mr. Erwin Lange (Socialist, Germany).

Mr. Jacques Moreau (Socialist, France).

Mr. Efstratios Papaefstratiou (European People's Party, Greece).

Mr. Niels Haagerup (Liberal, Denmark).

Mr. Harry Notenboom (European People's Party, Netherlands).
Lord Bethell (European Democrat, United Kingdom).
Mr. Wolfgang Schall (European People's Party, Germany).
Mrs. Louise Moreau (European People's Party, France).
Mr. Sergio Segre (Communist, Italy).
Mr. Alan Tyrell (European Democrat, United Kingom).
Mr. Leonidas Lagakos (Socialist, Greece).
Mr. Roland Boyes (Socialist, United Kingdom).
Mr. Karl von Wogau (European People's Party, Germany).
Mr. Michael Welsh (European Democrat, United Kingom).
Mr. Fritz Gautier (Socialist, Germany).
Miss Sile de Valera (European Progressive Democrat, Ireland).
Mr. Roland De Kergorlay, Head of the Delegation of the Commission of European Community.
Mr. Theo Junker, Head of Division, Secretariat of Interparliamentary Delegations.
Mr. Denis Corboy, Director of Information, Delegation of the Commission of the European Communities.
Mr. Gerard Laprat, Secretary-General, Communist Party Group.
Mr. Simon Lunn, Adviser, Office of the President of the European Parliament.
Mr. James Spence, Principal Administrator, Secretariat of Interparliamentary Delegations.
Mr. Chris Piening, Administrator, Secretariat of Interparliamentary Delegations.
Mr. Jim Talbot, Public Affairs, Delegation of the Commission of the European Community.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRADY). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GOLDWATER). Without objection, it is so ordered.

## AMVETS ON VOLUNTARY PRAYER

Mr. HELMS. Mr. President, there has been a great deal of hot air, and very little substance, in the rhetoric against a statute restoring voluntary prayer to the public schools. Congress has ample explicit power to withdraw prayer cases from the jurisdiction of the Federal courts, including the Supreme Court, notwithstanding the cries now emanating from the lawyers' lobbyists.

Gabriel P. Brinsky, national service and legislative director of AMVETS, has recently made a significant contribution to the debate on this matter. Published in the May 20, 1982, issue of the Stars and Stripes, Mr. Brinsky's article emphasizes that prayer in the schools is nothing more and nothing less than bedrock American tradition.

Among other things, Mr. Brinsky says,

Prayers belong in schools. It is Americana. So let there be wailing and gnashing of teeth. Let the venomous sophistry flow. Let new invectives be invented to condemn it. For in spite of all the opponents' arguments, one thing is certain: none can deny the self-evident, compelling truth: There is no evil in prayer.

Mr. Brinsky is right, and as a representative of AMVETS he should be given consideration by my colleagues in the Senate. Therefore, Mr. President, I ask unanimous consent that "As We See It: Prayer" by Gabriel P. Brinsky appearing in the May 20, 1982 edition of the Stars and Stripes be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Stars and Stripes, the National Tribune, May 20, 1982]

AS WE SEE IT—PRAYER

The Helms Senate Amendment would have restored voluntary prayer in the public schools. It got nowhere and is still floundering in Committee. Chances are that it won't go anywhere. Logically and innocently one might ask: And why not? Is not 80% of the population in favor of school prayer?

True, give or take a few percentage points. So, if the great majority of the population in a democracy wants it, what's the hold-up?

Well, sometimes the democratic processes do not percolate as intended. A minority on occasion can prevail by utilizing the very mechanism which is meant to insure the will of the majority. For example, the constitution is invoked by the opponents to argue against the legislation to restore voluntary prayer. They claim such legislation would be unconstitutional.

Whether in reality it would be unconstitutional matters not. The opponents are not imbued with constitutional provisions. It merely serves as a convenient ploy.

So to obtain prayer in schools, the President of the United States proposed a constitutional amendment to overcome the objection. Immediately his announcement was greeted by facetious allegations that he was proposing prayer as a solution to unemployment.

In a more valid view, it is alleged that the mere fact that a prayer is said in a school, it becomes a state's prayer and therefore becomes the state's religion.

Taking this reasoning in inverse order, since states cannot have religions, being inanimate entities, it follows that they do not have adopted prayers. Therefore, any prayers in schools can only be universal supplications to the Diety.

But prayers in school provide no allowance for minority beliefs, goes the argument. When an entire class and the teacher recite a prayer, no thought is given as to how uncomfortable the minority children must feel. Often they will do what the teacher expects them to do. This, they insist, is tantamount to religious intimidation.

The fallacy in this argument is that it presupposes all children are dolts who are incapable of independent thought or freedom of action. Not so. If it were true, then more the reason to exert guidance evidently solely needed. And what better example could be provided than acknowledging our faith in the Supreme Being? It has sustained our country during trying times and has helped to make it what it is today, the greatest nation on earth.

It is also argued that you cannot "sanitize" a prayer to the point that it can be everyone's prayer. The Washington Post Newspaper, in a recent editorial, suggested that the state should stay out of the "business" of deciding whose God and "which prayers are suitable for our children."

Well, if we consider prayer as a "business," then the ground rules for debate must be changed. For business is a competitive enterprise while prayer is not.

It is true that prayer cannot be "sanitized" in the sense that prayer must be strictly a private matter between the communicator and his Maker. But to pay homage to one's Creator is a concept which readily lends itself to universal adoration. Thus, should any part of the supplication offend for whatever the reason, that portion of the prayer can be individually "sanitized" by the simple expediency of silence, or, if preferred, a sotto voce substitution of preference.

Prayers belong in schools. It is Americana. So let there be wailing and gnashing of teeth. Let the venomous sophistry flow. Let new invectives be invented to condemn it.

For in spite of all the opponents arguments, one thing is certain; none can deny the self-evident, compelling truth: There is no evil in prayer.

## SHE DIDN'T SAY IT

Mr. HELMS. Mr. President, on May 21, in comments concerning the budget resolution, I mentioned a memorandum which I had understood to have been sent in 1979 from the Director of the Congressional Budget Office, Alice Rivlin, to then Budget Committee chairman, Senator Muskie. In fact, the memorandum to which I referred was sent from the then majority staff director, Mr. John McEvoy, to Chairman Muskie quoting Miss Rivlin.

My comments concerning the budget resolution were to the effect that the Congressional Budget Office reportedly had a prejudice against classical or supplyside economics—which, in a recent letter, Miss Rivlin denies. Moreover, I have learned that Miss Rivlin denied the accuracy of that quotation at the time that it became public knowledge.

Mr. President, I ask unanimous consent that a letter from Miss Rivlin setting forth her position and a copy of the McEvoy memorandum be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, D.C., June 2, 1982.*

Hon. JESSE HELMS,
*U.S. Senate,*
*Washington, D.C.*

DEAR MR. CHAIRMAN: In your floor speech of May 21, you inadvertently perpetuated a story that has no basis in fact. You refer to memorandum from me to Senator Muskie describing supply-side critics to CBO as a "right wing claque." You suggest I probably meant "clique."

There never was such a memorandum from me to anyone. I never used either

phrase in this context. The phrase was attributed to me by a Muskie staffer, but as the record shows, I emphatically denied both the phrase and the idea itself (see attached letter to Senator Muskie of April 15, 1980).

CBO uses a variety of econometric models representing different views of how the economy works. We have particularly sought supply-side models and have been using the Evans model which was explicitly designed to be a supplyside model. We have always welcomed all views concerning our methods and projections and continue to do so.

In order to correct this misrepresentation of my views, I would greatly appreciate your willingness to insert this letter into the Congressional Record.

With best wishes,

Sincerely,

ALICE M. RIVLIN, *Director.*

Enclosure.

MEMORANDUM

To: Senator Muskie.
From: John McEvoy.
Date: October 4, 1979.
Subject: Orrin G. Hatch—Request for oversight hearings.

Senators Hatch and Armstrong wrote you recently asking for hearings on CBO's economic forecasting models. Hatch—and Hayakawa before him (they have had the same budget committee staff person)—have conducted one-man campaigns against the validity of CBO's economic projections on the ground that the commercial forecasting models CBO uses do not adequately reflect the economy, particularly as it responds to federal stimulus.[1] Today a second letter arrived from Hatch, renewing the request for hearings on the basis of a meeting he had with Alice last week. He would like to have those hearings in connection with the legislative hearings scheduled for the end of this month on the legislative bills which have been referred to the Budget Committee.

I have discussed this issue with the minority, with our staff, and with Alice Rivlin. Alice doesn't really want to have hearings and would like us to put Hatch off somehow. She says—and Susan Lepper supports her in this—that the critics of the models CBO uses for forecasting are an extreme right-wing claque who should not be given an audience, lest it legitimize their views and give Hatch a forum which ought to be denied him if we could.

If we are to hold hearings, Alice believes that they should involve noted economists telling the Committee that Hatch's witnesses are wrong. Thus, the hearings might be structured in a panel form in which Hatch's witnesses and the pro-CBO witnesses appear on the same panel. Two days might be required to effectively use that format.

I have mixed feelings about the Hatch request. I am tempted to have him off on this tangent, which few people know or care about outside the economics profession, rather than to leave him with time to become engaged with something that might be more serious, and while I would ordinarily think that a request by a member of the Committee should be given most serious consideration, Hatch consistently puts himself beyond the pale by his attitude and accusations, such as the Barron's article which you have seen.

On balance, I do not see how we can deny Hatch the hearing without giving him still another cause of complaint about the Committee and a chance to allege that we are covering up CBO's deficiencies. And so I recommend that the hearing be held.

But I do not believe that the hearing should be held in conjunction with the legislative hearings scheduled for the end of this month. Those hearings already will use three or four days. The addition of Hatch's hearing might extend these hearings to four or six days. Moreover, what Hatch wants is oversight in nature and should be considered in a broader context in connection with this Committee's responsibility to oversee the operations of CBO generally.

Another aspect of Hatch's behavior which is objectional is his consistent pursuit of Senator Bellmon, including planting articles in the Oklahoma press criticizing the budget process and Senator Bellmon's role in it. Recently, "Harper's" printed an article critical of the budget process and especially critical of Bellmon for his cooperation with you. Incidentally, it praises Senators Hatch and Armstrong, singling out Hatch as a particularly valiant member of the Committee and virtually identifying him as a major contributor to the article. Bob Boyd reported this morning that the article was given to members of the Oklahoma press by the Hatch staff member who is paid by this Committee.

Given Hatch's and Armstrong's juniority on the minority, the fact that they vote in Committee and on the floor against the Budget Resolution, and Hatch's vindictive campaign against the process and Senator Bellmon, I think the least we can do is require that any request for hearings be acquiesced in by Senator Bellmon before you accede to it.

Therefore, I suggest you send Hatch (with copy to Armstrong) the attached letter.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXTENDING THE EXPIRATION DATE OF SECTION 252 OF THE ENERGY POLICY AND CONSERVATION ACT

Mr. McCLURE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be discharged from further consideration of S. 2651, a bill to extend the expiration date of section 252 of the Energy Policy and Conservation Act, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2651) to extend the expiration date of section 252 of the Energy Policy and Conservation Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceed to consider the bill.

UP AMENDMENT NO. 1043

Mr. McCLURE. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1043.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1 strike "June 30, 1985" and insert in lieu thereof "August 1, 1982".

Mr. McCLURE. Mr. President, this matter has been cleared on both sides of the aisle. It would temporarily extend the antitrust exemption for participating in the International Energy Agency deliberations. This would permit us the time to complete the action on the conference, the conferees for which were appointed this morning in the Senate and this afternoon in the other body.

Mr. President, this amendment would substitute August 1, 1982, for the date of June 30, 1985, included in the introduced bill, and thereby extend the authority in section 252 from an additional 30 days until August 1. This short 30-day extension will allow, hopefully, the additional time to complete action on S. 2332 and its companion legislation on energy emergency preparedness in the other body, which already contains a longer term extension and related preparedness provisions.

Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1043) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HUDDLESTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

[1] Contrary to Hatch's frequent assumptions, there is no "CBO model." CBO uses the commercially available models such as DRI (Data Resources Institute) operated by Otto Eckstein for its work, just as so most other forecasters. The deficiencies, if any, in the "CBO model" are endemic to all of the frequently used economic forecasting models.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2651

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 252(j) of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking "July 1, 1982" and inserting in its place "August 1, 1982".

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HUDDLESTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCLURE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NO NET COST TOBACCO PROGRAM ACT OF 1982—H.R. 6590

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, I am about to state a unanimous-consent request in respect to the consideration of H.R. 6590, the so-called tobacco bill, which I believe has been cleared with all the principal parties at interest, and which I will state now for the consideration of all Senators.

I ask unanimous consent that at 10 a.m. on Wednesday, July 14, 1982, the Senate proceed to the consideration of H.R. 6590, the tobacco bill, under the following time agreement:

Two hours on the bill, to be equally divided between the chairman of the Agriculture Committee and the ranking minority member, or their designees; 40 minutes on all amendments, with the exception of 1 hour equally divided on each of three amendments by Senator EAGLETON—floor sweeping, sunset of price support, support price adjustment; 20 minutes on any debatable motions, appeals or points of order, if submitted to the Senate; and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. QUAYLE. Mr. President, reserving the right to object, I do not have any problem, except with the last part—that the agreement be in the usual form.

As the majority leader knows, I have been looking for a vehicle to discuss a sugar amendment that I have offered. Looking at the legislative agenda ahead and having been foreclosed on the short debt limit bill last night, with the understanding that we would find another vehicle, this certainly looks like an appropriate vehicle to discuss the sugar amendment.

If the last part can be accommodated to discuss the sugar amendment, I will not have any objection, or perhaps we can work out something else.

I put this off at one time at the request of the majority leader, and I do reserve the right to object, unless we can work out something that would accommodate the Senator from Indiana.

What I am trying to do is to have a discussion before the Senate on the sugar problem. We have import quotas now that are disastrous, and I think it should be discussed by the Senate separately.

Mr. BAKER. Mr. President, the chairman of the Agriculture Committee is here, and perhaps he can suggest a vehicle that is agriculture-related which we could call up as a vehicle.

The other thing that occurs to me is that, as the Senator knows, I have announced repeatedly that when we return from the recess, I intend to call up the constitutional amendment on the balanced budget. I assume that that would not be a suitable vehicle. But as soon as possible after that, which would be almost immediately, I would call up the second debt limit, assuming that it has been reported by the Finance Committee, and I think it will be. That debt limit would not be unavailable. I assume that it would be reported by the Finance Committee in such a way that it would be amendable and not subject to any restriction. I have asked the chairman of the Finance Committee to report it as a separate, freestanding measure. I am speaking of the debt limit extension.

I understand the concern of the Senator from Indiana, but I think the second debt limit is going to be pretty much contemporaneous with the consideration of this bill. Indeed, with this time limitation, I suppose that on the 14th, the Senator will not be more than a few days ahead of the second debt limit—not very many days. So I suggest the possibility of the second debt limit.

Mr. QUAYLE. I wonder whether the majority leader would speculate when the second debt limit might be passed in the House of Representatives with all the ornaments that the Senate desires to put on it—and that goes precisely to my point.

I am looking for a viable vehicle, and this is very viable, since it passed the House of Representatives very quickly. It will pass the Senate in due time. I think it is a good bill, and I am prepared to vote for the bill, but I also would like to have a discussion of my amendment. Maybe I will be defeated. There is a chance we may be defeated.

If, when we come back from the recess on July 14, I see the momentum going my way for the sugar amendment, I do not want to be foreclosed.

This comes from the Agriculture Committee; it is an agriculture issue, I see the majority leader nodding his head in tacit agreement.

Mr. BAKER. I admire the tenacity of the Senator from Indiana.

At this point, I yield to the Senator from North Carolina, who is the chairman of that committee, for any suggestions he may have.

Mr. HELMS. Mr. President, will the majority leader consent to a quorum call?

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, is the Senator from North Carolina correct in his understanding that the distinguished majority leader has propounded a unanimous-consent request?

The PRESIDING OFFICER. The Senator is correct.

Mr. EAGLETON. Mr. President, reserving the right to object—and I will not object—may I proceed?

The PRESIDING OFFICER. The Senator from Missouri.

Mr. EAGLETON. Mr. President, this past Monday the House passed H.R. 6590, known as the "No Net Cost Tobacco Program Act of 1982." That legislation makes strides toward addressing the concerns some of us have had regarding the tobacco price support program.

The proponents of the tobacco price support program in the House shoved this legislation through markup before the Subcommittee on Tobacco and Peanuts, the full Agriculture Committee, as well as the floor of the House, on what politely could be called a fast track. Since the bill was brought to the floor under suspension of the rules, amendments were not in order. It is important to note for my colleagues that the bill was not formally finalized until immediately preceding its going to the floor.

H.R. 6590 does at least lean in the right direction. It establishes what is essentially a checkoff system, whereby tobacco producers contribute to a fund which would be used to offset losses the Government might incur in carrying out the tobacco price support program for the 1982 and subsequent crop years. This legislation authorizes the sale of tobacco allotments and requires that many nonproducers dispose of their allotments. In addition, it provides the Secretary of Agriculture with some very modest flexibility in establishing tobacco price support levels when he determines that a certain grade of tobacco is in excess supply.

Unfortunately, Mr. President, H.R. 6590 does not go far enough to fully benefit either the taxpayer or tobacco producers. As of April 30, the Federal Government had almost $600 million tied up in Flue-cured tobacco stocks alone. My colleagues and the public should recognize that the Commodity Credit Corporation counts these stocks as net assets even though they know full well that at current market prices these stocks cannot be sold to recoup the Government's investment in them. Therefore, the determination of what actually should be considered a loss to the Government and what is instead an asset that does nothing more than lies around and rots in some warehouse somewhere is left up to a faceless Government accountant. This bill fails to address this problem.

The bill would still provide for price support levels at approximately 150 percent of the cost of producing tobacco, far higher than the price protection provided any other crop. At this level, it is clear U.S. tobacco would continue to lose to the competition both in the world and domestic markets. Beyond this consideration, however, it appears that the minor changes made in the price support mechanism may very well jeopardize the "no net cost" aspects of this bill. In his report to the Congress entitled "Recommendations of the Secretary of Agriculture for Achieving a No Net Cost Tobacco Program" transmitted in January of 1982, the Secretary indicated the following:

> To ensure a no net cost tobacco program, the Secretary must have discretion to adjust price support levels for the various kinds of tobacco. Adjustment of the support levels could be accomplished in a number of ways. Various alternatives are being examined, including more market-oriented approaches.

To my knowledge, the Secretary has yet to transmit any formal legislative proposals to the Congress to address this.

The bill fails to address the abuse that exists in the sale of floor sweepings by tobacco warehousemen as discussed by the General Accounting Office in its recent review of the program. Since I believe, as most of my colleagues do, that we should not miss any opportunity to correct abuses in Federal programs, this issue needs to be addressed.

The bill fails to include warehousemen who market tobacco through the floor-sweepings program in the fee system to which producers and allotment holders are both subjected. Although this may have been a simple oversight, I believe if we are to establish a fee system, let us make sure everyone is covered by it that should be.

Although the bill takes some steps toward addressing the problem of abuse of the allotment leasing provisions, I do not believe it goes far enough. It does not address the problem of doctors, lawyers, and other nonfarmers who own burley allotments, who live off the farm, and who have no interest in the farm except to collect lease payments. This needs to be addressed.

As I have outlined, modifications in H.R. 6590 are necessary. With ample time to debate these issues and to give them the full public airing open debate would provide, I think we can get a satisfactory bill passed. However, because this bill has had only cursory almost instantaneous review by the Senate Agriculture Committee, because we do not yet know what the position of the Department of Agriculture is on this legislation, and because we may not be afforded another opportunity to fully discuss the tobacco price support program in the near future, I believe it is encumbent upon the full Senate to take the time necessary to completely explore the implications of this legislation before passing it.

Mr. President, let me add one other thought: This bill, as I stated at the outset of my prepared remarks, does make some substantial changes in the tobacco program, but it was being raced through the Congress at almost a record pace. Only last Thursday, a week ago today, it emerged from the House Agriculture Committee. On Monday it was considered under suspension of the House rules without any debate, discussion, or rollcall votes. Tuesday was the first opportunity we had to look at the bill, and here we are at 4:20 p.m. on Thursday.

In my judgment, time was not adequate to debate, discuss, and to rationally proceed on a series of substantive amendments in this sort of pellmell rush atmosphere. That is why I and other Members of the Senate were very concerned with the pace with which it was rolling through the Senate.

The bill was referred to the Senate Agriculture Committee last night. In the markup at the Agriculture Committee—held sometime before noon today—Senator BOSCHWITZ from Minnesota, for example, expressed his reservations about such an instantaneous, hasty rush to complete this bill since it deals with one of the most controversial of America's agricultural programs.

However, I think we have now overcome that rush, rush, rush atmosphere. The unanimous-consent request, as previously propounded by the Senate majority leader, satisfies me entirely; gives us ample time to prepare for an intelligent, meaningful debate on this issue, and thus I will not interpose any objection to the Senator's request.

Mr. BAKER. I thank the Senator from Missouri, and I am very grateful for his consideration of this agreement. The agreement would provide for a logical and methodical consideration of this matter, and ample time for Senators to address the issue.

I understand the Senator from Indiana has questions he wishes to address in this respect before the Chair puts the request.

Mr. QUAYLE. Mr. President, I have reserved the right to object to the unanimous-consent request propounded by the distinguished majority leader. I will not object, but I do want to state for the record that, after consultation with the majority leader, the distinguished chairman of the Agriculture Committee, and the distinguished ranking member of the Agriculture Committee and myself, we will proceed with this under the unanimous-consent arrangement.

Furthermore, it was understood that we would work together to accommodate the request of the Senator from Indiana to find a viable vehicle to have a debate on the floor of the U.S. Senate and a vote on the sugar amendment that the Senator from Massachusetts, Senator TSONGAS, and I have proposed. I accept that, though I would prefer to do it, perhaps, on this bill, because I know the urgency and the nature of it and I am also certain that it is going to go somewhere and it is going to be concluded.

But I do not want to be disruptive. I am willing to recede to the desires of the chairman and the majority leader with the understanding that the accommodation will be forthcoming. I will be working with the Senators to meet that understanding in the future. I withdraw the reservation of objection.

Mr. BAKER. Mr. President, I thank the Senator from Indiana for withdrawing his reservation of objection. In conversation with the chairman and the ranking member of the committee and the Senator from Indiana, it is my understanding that an effort will be made to find an agriculture-related bill to which this could be added and I am perfectly happy to call up the measure and to do so as promptly as we can arrange it or, in the alternative, of course, the Senator has the right to offer that to some other bill as it may come along, including the second debt limit.

Mr. BAKER. Mr. President, I yield to the junior Senator from North Carolina.

Mr. EAST. Mr. President, I would simply like to express my gratitude to all the people involved in working out this unanimous-consent agreement, including the distinguished Senator from Missouri, the chairman of the Agriculture Committee, and the great help that the majority leader, as always, has rendered in trying to move legislation through, and also, as the distinguished Senator from Virginia has indicated, we thank the able and

distinguished Senator from Indiana for his willingness to assist us in letting us move on with the debate and discussion on this measure after we return. One final comment that goes without saying is the great contribution of the most distinguished and able ranking member of the Agriculture Committee, Senator HUDDLESTON, who is always a great pleasure to work with.

Mr. President, for the information of Senators, I am advised that the other body is now close to completion on the rollcall vote in respect to a supplemental appropriation bill. It is my expectation that that measure will reach the Senate within the next 30 minutes or so. I intend to ask the Senate to turn to the consideration of that bill as soon as it is received from the House.

Mr. President, I yield the floor.

Mr. HELMS. Mr. President, I am sure the distinguished Senator from Missouri understands that Senator HUDDLESTON and I would much have preferred that there not be the great haste to which he referred. The fact of the matter is that the Senator from Kentucky and the Senator from North Carolina and others interested in this legislation were hemmed in by time constraints not of our own making. They relate to the opening of the marketing season for the Flue-cured markets.

But I share his dismay that we were put in a position of having to act on this legislation as quickly as we have.

Mr. President, Senators will recall that during consideration of the farm bill last year several amendments were offered which were designed to make changes in the tobacco program. We were mandated to do various things. Now, because tobacco is not a part of the quadrennial farm bill and because we did not have an opportunity to make a comprehensive review of what might best be done to most effectively modify the program or satisfy the criticisms of it, it was our feeling that the Senate should turn back those amendments.

I am gratified that Senators took us at our word that we would initiate a careful review and come back at a later time to make adjustments to satisfy the most pressing concerns Senators have about the tobacco program.

Now, we have kept faith with that pledge.

In the course of the past year Senators and Members of the House of Representatives from tobacco States have engaged in a detailed and thorough process of evaluating the tobacco program. Almost a score of hearings were held in tobacco States, and every segment of the tobacco family was involved in making recommendations as to how we could adjust the program in a substantive way that would still retain the small family farm structure of the tobacco economy.

In the debate last year, Senators expressed concern that there might be a subsidy to tobacco farmers in the operation of the tobacco program. Senators noted that the opportunity for U.S. tobacco farmers to meet the challenge of the world markets was being eroded by a lack of price competition caused by a price support formula that resulted in U.S. leaf being overpriced. And, there was criticism that too few of the allotments were in the hands of actual tobacco growers, resulting in the introduction of middlemen who benefited in too great a degree from the ability to lease and transfer quota they owned to farmers who did not.

Mr. President, I believe that the debate last year served a very useful purpose for all concerned. First, it established the parameters of concern that Senators who are well-disposed toward farmers in general have. Second, it caused tobacco farmers throughout the United States to realize that the Congress intends that the tobacco program be modernized and updated. Third, it established the conditions by which it is possible for those of us from tobacco States to be able to bring that kind of legislation to the Congress without fear that the entire program will be scrapped and the livelihoods of hundreds of thousands of our people thrown into jeopardy.

Also, I believe last year's debate was something of a watershed in the Senate's understanding of two essential points about the tobacco program. First, there is no tobacco subsidy. Our program has worked out to be virtually cost free over the past decade—principally because of the quota production controls which keep supply in line with demand.

Second, there is an appreciation for the fact that the tobacco program does not mitigate against those who would further the issues involved with smoking and health. I believe the Congress—or at least most of us in the Congress—now appreciate how the production controls inherent in the tobacco program actually mitigate in favor of those concerned about the health issues.

So, there has been a lot of water under the bridge since last year, and I am pleased to report to the Senate that we have made the adjustments suggested by critics during the farm bill debate.

The House of Representatives has passed a bill which will make the adjustments, and it is now before us. It passed the House without opposition, under the Suspension Calendar. The fact that it passed without opposition in the House is very significant because it demonstrates that we have effectively answered the challenge presented to us last year.

Before I discuss the detail of just what this measure accomplishes, let me emphasize how important it is that the Senate act with dispatch to pass this bill immediately.

Timing is crucial because the Flue-cured marketing season begins the first week in July. If we cannot pass the bill this week, the practical effect is that the changes in the program to assure there will be no losses in the operation of the program, the price support formula adjustments, and the new restrictions on leasing and holding of allotments and quota will be delayed until the 1983 crop.

It has not been without difficulty that we have persuaded our tobacco farmers that the changes the Congress intends we make be made as soon as possible. Many of them would have had us put off the day of reckoning indefinitely; but, we proceeded on the grounds that it is in everyone's interest for us to make the necessary adjustments at the earliest possible time—and for the 1982 crop.

As the House is scheduled to go into recess on June 24—until July 12—it is just essential that we handle this matter right now. Delay would be as unnecessary as it would be undesirable. It would mean that the changes our farmers are ready to have imposed on them could be put off a year. The consequences of that would be to simply continue the status quo that our most ardent critics have expressed concern about, and it would serve no useful purpose for anyone.

I know that the timing is unusual, and that the Senate has a right to expect thorough consideration of these program adjustments.

It is my understanding that the chairman of the House Agriculture Subcommittee on Tobacco and Peanuts has assured that there will be full hearings on the subject before the end of next session, and I will be pleased to cooperate in that same fashion as well.

But the bottom line is that we must ask the indulgence of the Senate to accept this House-passed bill without delay.

If our year's work is to come to fruition in time to take effect for the 1982 crop. Our farmers are ready for it, our critics want it, and now is the time to do it.

The bill passed the House Monday, and was received in the Senate about 5 p.m. last evening. The Senate Committee on Agriculture, Nutrition, and Forestry reported it from committee at about 12:15 this afternoon—following a 30-minute committee meeting on the subject. The House-passed bill was reported with committee amendments designed to strengthen the no-loss fund collection procedures and to make certain technical and conforming changes.

Mr. President, the provisions of the legislation now before us are explained in a detailed summary of the bill which I have available for any Senator

who wishes to review it, and which I ask unanimous consent be printed at the conclusion of my remarks, along with the text of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. The principal provisions, however—as well as their rationale—are as follows:

First, the bill establishes a no-loss fund in each of the tobacco associations to assure that the Commodity Credit Corporation will sustain no losses from the price support program. I must say that there is no other farm commodity program—and there are 13 of them—in which the farmers have such an arrangement with the Government. But, our tobacco farmers recognize that many Members of Congress feel the program ought to be operated without losses, and want that themselves.

Second, the bill provides that the price support formula may be adjusted downward by the Secretary when he ascertains that certain grades of tobacco are not competitively priced. This is designed to assure that CCC outlays will be reduced. That is accomplished by assuring that less tobacco will go into loan stocks. Also, this will make the tobacco more competitively priced, so that U.S. farmers can sell more of our leaf in the growing world markets.

Third, in an effort to remove one of the more troublesome problems farmers have faced, we shall eliminate what is called fall leasing of Flue-cured tobacco quotas. This is designed to eliminate speculation in the leasing of tobacco quotas and makes it more desirable for a person to sell a quota or allotment they do not intend to farm themselves. Also, this measure will serve to reduce the quota leasing rates—which should put an end to the concern so many have about the "feudal" exploitation of tobacco farmers by those allotment holders who speculate in the leasing of quotas.

Fourth, entities which are not primarily engaged in farming and all persons who are not possessed of sufficient tillable tobacco acreage must sell their allotment to active producers no later than December 1, 1983, or forfeit it.

Fifth, as has already been alluded to, Flue-cured tobacco allotments may be sold by willing sellers to farmers. This will move the tobacco quota into the hands of farmers, serving to further reduce leasing costs, cause the program to be more farmer oriented and less allotment holder oriented. Yet, persons who are presently possessed of allotments and who want to continue leasing to active producers may continue to do so. This will assure that the "rug is not pulled" from anyone who has come to depend upon their tobacco allotment for their retirement or whatever.

Sixth, the bill makes a technical change to bring established yields of Flue-cured tobacco in line with actual production capabilities. This will substantially reduce demand for leased poundage. Thereby helping to reduce leasing costs. Over the years farmers have increased their production yields per acre, and consequently can produce more poundage per acre than they could when the last adjustment was made.

This adjustment every 5 years will serve to keep the acreage allotments in relationship to the poundage quotas, diminishing the excess tobacco available at harvesttime. It was this excess tobacco—grown within the allotment, but in excess of the quota—that was causing farmers to have to scurry about trying to lease in additional poundage if they had an exceptionally good crop.

In short, Mr. President, the package of changes we urge the Senate to adopt will assure that there are no losses for the Government and the taxpayers in the operation of the tobacco program; they will assure that the tobacco will become more competitive with that grown in world markets. This will not create one bit more tobacco, but will assure that U.S. farmers do not continue to lose their markets. And the bill will substantially modify the lease and transfer and sale arrangements Flue-cured farmers may make, so as to move the allotments and quotas into the hands of actual producers.

I know of no opposition to achieving these goals, and the timeliness of the issue is upon us.

EXHIBIT 1

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY, BRIEF EXPLANATION OF H.R. 6590, JUNE 22, 1982

H.R. 6590, as passed by the House of Representatives, would amend the Agricultural Act of 1949 and the Agricultural Adjustment Act of 1938 as they generally relate, respectively, to the price support program for all kinds of quota tobacco and the acreage allotment and quota program for tobacco.

TITLE I—TOBACCO PRICE SUPPORT PROGRAM

*No net cost tobacco fund*

H.R. 6590, as passed, as it affects the tobacco price support program for the 1982 and subsequent crops—

(1) provides for the program to be carried out by the Commodity Credit Corporation (the Corporation) through producer-owned cooperative marketing associations that make price support advances to producers under loan agreements with the Corporation;

(2) requires each association to establish a separate capital fund to consist of contributions made by producers of the kind of quota tobacco handled by the association and, with respect to the association handling Flue-cured tobacco, by those who, for the 1983 and subsequent crops, lease allotments or quotas to other persons. The fund is to be used exclusively to achieve the objective of the bill—the operation of the tobacco price support program at no net cost to the taxpayer, other than administrative costs common to the operation of support programs for all commodities;

(3) requires producers, as a condition of eligibility for price support, to make contributions, with respect to all quota tobacco marketed by them, to the fund of the association which makes price support advances available to them. For the 1983 and subsequent crops, producers of Burley tobacco, as a condition of price support eligibility, would have to agree to make contributions in each marketing year of any 3-year period in which marketing quotas are in effect;

(4) requires persons who lease Flue-cured tobacco allotments or quotas to other persons for the 1983 and subsequent crops to make contributions, at the same rate as producers, to the fund of the association which handles such tobacco;

(5) provides that the contributions shall be made in amounts determined by the association and approved by the Secretary, and directs that such approval may be given only if the proposed amounts of contributions will result in a fund sufficient to reimburse the Corporation for any losses that may be suffered under its loan agreements with the association;

(6) requires each association to issue capital stock or certificates or retain certificates to persons who contribute to the association's fund;

(7) permits an association to invest monies in the fund but requires that earnings on investments be included in the fund;

(8) provides that any net gains from the sale of any crop of loan collateral tobacco of an association will be retained by the Corporation for (a) application against any losses it sustains on other crops of the association's loan tobacco, or (b) reducing outstanding balances on any loan made by the Corporation to the association;

(9) permits the Secretary to release to the association for use for other purposes, or in the case of Burley tobacco for distribution to members of the association, any net gains or amounts in the fund which exceed amounts the Secretary determines necessary to achieve the program's "no net cost" objective;

(10) authorizes the Secretary to terminate a loan agreement with, or make no additional funds available to, an association if the association does not comply with the requirements imposed by the bill, in which event the Secretary would make price support available through other means to producers who used the association; and

(11) provides for the disposition of net gains and monies in the fund of any association which ceases to operate.

*Adjustment of price support level of tobacco*

H.R. 6590 also—

(1) authorizes the Secretary to reduce the support rate that would otherwise apply to any eligible grade of any kind of tobacco that is in excess supply, so long as the support rates for all eligible grades of a kind of tobacco average out to a level (a) that reflects not less than 65 percent of any increase in the support level for such kind of tobacco otherwise required by law, or (b) if there is no increase in the support level for such kind of tobacco, that is not less than the support level for such kind of tobacco established under existing law; and

(2) with respect only to an eligible grade of Flue-cured tobacco with the Secretary determines would otherwise have an excessive support rate, authorizes the Secretary to designate the grade as "excessively priced".

With respect to any grade so designated, the Secretary is directed, with the prior approval of the association and after prior consultation with associations for other major kinds of quota tobacco, to give producers the option of marketing such grade at a special auction. If a producer elects such option, the producer's tobacco of such grade will be ineligible for price support, will not count against the producer's marketing quota, but will be deducted from any undermarketings which the producer may carry forward to use the next year. With respect only to ineligible grades of Flue-cured tobacco, a producer may, with the prior approval of the association, market such grades at the special auction, with the provisions referred to above applying with respect to marketing quotas and undermarketings. For any crop, a producer may not market, at the special auction, a quantity of tobacco in excess of 10 percent of the quota for the farm.

TITLE II—FLUE-CURED TOBACCO ACREAGE ALLOTMENT AND MARKETING QUOTA PROGRAM

*Allotment and marketing quota program*

H.R. 6590, as it affects the Flue-cured tobacco acreage allotment and marketing quota program—

(1) prohibits fall leasing of allotments or quotas, except in the case of disasters, in which event fall leases may be made to owners or operators of farms in an adjoining county in the same State;

(2) requires that agreements for the lease of allotments or quotas be exclusively between the lessor and the lessee, or an agent who regularly represents the lessor or lessee in business transactions unrelated to tobacco, and prohibits subleasing;

(3) requires the lessor and lessee of an allotment or quota to certify that applicable requirements have been met and if a knowingly false statement is made, makes the lessee ineligible for price support and provides for reduction of the lessor's allotment or quota;

(4) limits the total allotment for any farm, after transfer thereto of allotment by lease or sale, to 50 percent of the acreage of tillable cropland on the farm;

(5) defines "tillable cropland" as cleared land that can be planted to crops without unusual preparation;

(6) permits the sale of allotments or quotas, but only to persons who are active tobacco producers within the same county;

(7) defines "active tobacco producer" as a person who shares in the risk of producing tobacco in at least one of the three preceding years and generally provides that a person shall be considered to have shared in such risk if (A) the person's investment in the production of a crop is not less that 20 percent of the proceeds of the crop, (B) the amount of the return on investment is dependent solely on the sale price of the crop, and (C) none of such return is received before the crop is sold;

(8) requires any person who purchases an allotment or quota and fails to share in the risk of producing tobacco under such allotment or quota, to sell the allotment or quota within 18 months from July 1 of the year the crop is planted.

(9) requires any person who purchases an allotment or quota and disposes of such a quantity of tillable cropland that the acreage allotment exceeds 50 percent of the tillable cropland on the farm either to take action to eliminate the excess or have it forfeited;

(10) requires entities such as governments, public utilities, educational or religious institutions (but not individuals) which are not significantly involved in the management of land for agricultual purposes, to sell their Flue-cured tobacco allotments or quotas by December 1, 1983, or have them forfeited;

(11) requires any person (including entities) to sell by December 1, 1983, or have forfeited any Flue-cured tobacco allotment which exceeds 50 percent of the farm's tillable cropland; and

(12) requires adjustment of the national average yield goal for Flue-cured tobacco to be made in 1983, and at five-year intervals thereafter, to the past five years' moving national average yield, and requires adjustment in 1983 and every 5 years thereafter of Flue-cured farm acreage allotments to the past 5 years' moving county average yield per acre based on actual yields, or, if not available, other appropriate data;

*Nonquota tobacco grown in quota areas*

H.R. 6590 also exempts, from the provision of law requiring that nonquota tobacco of any kind grown in quota areas be subject to quotas, nonquota tobacco produced in an area in which the total acreage allotments for quota tobacco are less then 20 acres. Producers of such nonquota tobacco would not be eligible to vote in the first referendum on such nonquota tobacco conducted after enactment of the bill.

TITLE III—MISCELLANEOUS PROVISIONS RELATING TO BURLEY AND OTHER KINDS OF TOBACCO

*Marketing assessments for Burley tobacco*

H.R. 6590, as it relates to the 1982 and subsequent crops of Burley tobacco—

(1) requires the Secretary, at the request of a Burley marketing association, and authorizes the Secretary, if he determines the capital fund established by an association for Burley tobacco will be inadequate to cover the Corporation's losses under loan agreements with that Burley association, to continue to make price support available through the Burley association and to establish a separate Burley account within the Corporation to consist of marketing assessments made by producers of Burley tobacco. The Burley account would supplant the capital account established by a Burley association under title I of the bill and would be used exclusively to ensure that the Corporation suffers no loss in carrying out its loan agreements with the Burley association;

(2) requires producers of Burley tobacco, as a condition of eligibility for price support, to pay to the Corporation with respect to all Burley tobacco marketed by them marketing assessments for deposit in the Burley account;

(3) provides that the marketing assessments shall be determined by the Secretary, and adjusted from time to time, in consultation with a Burley association. The assessments are to be in an amount sufficient to provide a Burley account adequate to reimburse the Corporation for any losses that may be suffered under its loan agreements with the Burley association;

(4) provides for collection of the assessments from the person who acquires the Burley tobacco and from a warehouseman or agent, if marketed through a warehouse or other agent;

(5) authorizes the Secretary to suspend the payment and collection of marketing assessments if the amount in the Burley account, and net gains from the sale of Burley loan collateral tobacco, exceed the amounts necessary to achieve the no cost purposes of the bill;

(6) provides for the disposition of net gains and monies in the Burley account established for any Burley association that ceases to operate; and

(7) provides that net gains from the sale of any crop of loan collateral tobacco of a Burley association will be handled the same as if the association had established a capital account.

*Mandatory sale of Burley tobacco allotments and quotas*

H.R. 6590, as it affects the Burley tobacco acreage allotment and marketing quota program, requires entities such as governments, public utilities, educational or religious institutions (but not individuals) which are not significantly involved in the management of land for agricultural purposes, to sell their Burley tobacco allotments or marketing quotas by December 1, 1983, or have them forfeited.

*Poundage quotas for dark air-cured and fire-cured tobaccos*

H.R. 6590 would provide for 1983, and in subsequent years as the Secretary determines there may be sufficient interest, but not more frequently than every 3 years, that producers of dark air-cured tobacco (types 35 and 36) and fire-cured tobacco (types 22 and 23), would be given the opportunity in a referendum to choose whether they favor or oppose establishment of farm marketing quotas on a poundage basis (instead of an acreage allotment program). If more than 50 percent of those voting in the referendum favor a poundage control program, marketing quotas would be established on a poundage basis for the next three marketing years. Acreage would be converted to pounds on the basis of individual farm yields for the four highest years during 1978-1982, or the most recent four-year period. No farm would be permitted to have an average yield in excess of 3,000 pounds for converting acreage allotments to poundage quotas. Other technical changes are made to effect these changes.

*Modification of leasing of poundage quotas*

H.R. 6590 increases the maximum amount of Burley tobacco that may be leased from 15,000 to 30,000 pounds, and establishes a limit of 15,000 pounds on the amount of dark air-cured tobacco and fire-cured tobacco that may be leased.

S. 6590

(Omit the part in black brackets and insert the part printed in italic.)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

SHORT TITLE

SECTION 1. This Act may be cited as the "No Net Cost Tobacco Program Act of 1982".

FINDINGS

SEC. 2. Congress finds that—

(1) in order to implement the intent of Congress, as expressed in the Agriculture and Food Act of 1981, that the tobacco price support and production adjustment program be carried out at no net cost to the taxpayer, other than administrative expenses common to the operation of all price support programs, it is necessary that producers of quota tobacco share equitably in helping to eliminate losses which may be incurred in carrying out the program;

(2) producers of quota tobacco should be required, as a condition of receiving the benefits of price support for their tobacco, to contribute to a capital account to be estab-

lished by each producer-owned marketing association through which price support advances are made available to producers; and

(3) the account so established should be used by the associations exclusively for the purpose of achieving a no net cost tobacco program.

## TITLE I—MODIFICATION OF TOBACCO PRICE SUPPORT PROGRAM

### PRODUCER CONTRIBUTIONS TO NO NET COST TOBACCO FUND

SEC. 101. Effective for the 1982 and subsequent crops of tobacco, the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by inserting, following section 106, a new section 106A as follows:

"PRODUCER CONTRIBUTIONS TO NO NET COST TOBACCO FUND

"SEC. 106A. (a) As used in the section—

"(1) the term 'association' means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers;

"(2) the term 'Corporation' means the Commodity Credit Corporation, an agency and instrumentality of the United States within the Department of Agriculture through which the Secretary makes price support available to producers;

"(3) the term 'Fund' means the capital account to be established within each association, which account shall be known as the 'No Net Cost Tobacco Fund';

"(4) the term 'to market' means to dispose of quota tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the tobacco to an association for a price support advance;

"(5) the term 'net gains' means the amount by which total proceeds obtained from the sale by an association of a crop of quota tobacco pledged to the Corporation for price support loan exceeds the principal amount of the price support loan made by the Corporation to the association on such crop, plus interest and charges; and

"(6) the term 'quota tobacco' means any kind of tobacco for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers.

"(b) The Secretary may carry out the tobacco price support program through the Corporation and shall, except as otherwise provided by this section, continue to make price support available to producers through loans to associations that, under agreements with the Corporation, agree to make loan advances to producers.

"(c) Each association shall establish within the association a Fund. The Fund shall be comprised of amounts contributed by producer-members as provided in subsection (d).

"(d) The Secretary shall—

"(1) require—

"(A) that—

"(i) as a condition of eligibility for price support, each producer of each kind of quota tobacco (other than Burley quota tobacco with respect to the 1983 and subsequent crops) shall agree, with respect to all such kind of quota tobacco marketed by the producer from a farm, to contribute to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary; and

"(ii) as a condition of eligibility for price support for any marketing year of any three-year period for which marketing quotas are in effect (other than the period applicable to the 1982 crop), each producer of Burley quota tobacco shall agree, not later than a date established by the Secretary preceding the beginning of the first marketing year of such three-year period (or, in the case of a producer of Burley quota tobacco on a new farm or a producer of Burley quota tobacco succeeding another producer on a farm, before the beginning of the marketing year in which such new producer or such successor producer will first market Burley quota tobacco from the farm involved), to contribute in each of the marketing years in such three-year period (or, in the case of such new producer or such successor producer, any remaining marketing year in such three-year period), with respect to all Burley quota tobacco marketed by the producer, to the appropriate association, for deposit in the association's Fund, an amount determined from time to time by the association with the approval of the Secretary; and

"(B) that, upon making a contribution under subparagraph (A)—

"(i) in the case of quota tobacco marketed other than by consignment to an association for a price support advance, the producer shall receive from the association capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution; and

"(ii) in the case of quota tobacco consigned by the producer to an association for a price support advance, the producer shall receive from the association a qualified per unit retain certificate, as defined in section 1388(h) of the Internal Revenue Code, having a face amount equal to the amount of the contribution and representing an interest in the association's Fund.

The Secretary shall approve the amount of the contributions determined by an association from time to time under this paragraph only if the Secretary determines that such amount will result in accumulation of a Fund adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with the association, based on reasonable estimates of the amounts which the Corporation will lend to the association under such agreements and the proceeds which will be realized from the sales of tobacco which are pledged to the Corporation by the association as security for loans;

"(2) effective for the 1983 and subsequent crops, require that each owner and operator of any farm who, in conformity with the provisions of subtitle B, part I, of the Agricultural Adjustment Act of 1938, leases all or any part of an acreage allotment or marketing quota for Flue-cured tobacco to make contributions, for deposit into the Fund established by the association which, under a loan agreement with the Corporation, makes price support available to producers of Flue-cured tobacco. The amount of such contribution for the quantity of tobacco of each crop represented by such lease shall be the same amount as the contribution for producers of Flue-cured tobacco of such crop determined and approved under paragraph (1). The Secretary shall require that such association, upon receiving such contribution, issue to such owner and operator capital stock or, if the association does not issue such stock, a capital certificate having a par value or face amount, respectively, equal to the contribution;

"(3) require that the Fund established by each association shall be kept and maintained separate from all other accounts of the association and shall be used exclusively, as prescribed by the Secretary, for the purpose of ensuring, insofar as practicable, that the Corporation, under its loan agreements with the association with respect to 1982 and subsequent crops of quota tobacco, will suffer no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of the association), after any net gains are applied to net losses of the corporation under paragraph (5);

"(4) permit an association to invest the monies in the Fund in such manner as the Secretary may approve, and require that the interest or other earnings on such investment shall become a part of the Fund;

"(5) require that loan agreements between the Corporation and the association provide that the Corporation shall retain the net gains from each of the 1982 and subsequent crops of tobacco pledged by the association as security for price support loans, and that such net gains will be used for the purpose of (A) offsetting any losses sustained by the Corporation under its loan agreements with the association for any of the 1982 and subsequent crops of loan tobacco, or (B) reducing the outstanding balance of any price support loan made by the Corporation to the association under such agreements for 1982 and subsequent crops of tobacco, or for both such purposes; and

"(6) provide, in loan agreements between the Corporation and an association, that if the Secretary determines that the amount in the Fund or the net gains referred to in paragraph (5) exceed the amounts necessary for the purposes specified in this section, such excess (A) in the case of an association making price support available to producers of quota tobacco other than Burley tobacco, will be released to the association by the Corporation and may be devoted to other purposes by the association, and (B) in the case of an association making price support available to producers of Burley quota tobacco, will be released to the association by the Corporation and may be distributed, as determined by the association, to the producer-members of the association as a capital distribution or net gain distribution.

"(e) If any association which has entered into a loan agreement with the Corporation with respect to 1982 or subsequent crops of quota tobacco fails or refuses to comply with the provisions of this section, the regulations issued by the Secretary thereunder, or the terms of such agreement, the Secretary may terminate such agreement or provide that no additional loan funds may be made available thereunder to the association. In such event, the Secretary shall make price support available to producers of the kind or kinds of tobacco, the price of which had been supported through loans to such association, through such other means as are authorized by this Act or the Commodity Credit Corporation Charter Act.

"(f) If, under subsection (e), a loan agreement with an association is terminated, or if an association having a loan agreement with the Corporation is dissolved, merges with another association, or otherwise ceases to operate, the Fund or the net gains referred to in subsection (d)(5) shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that they shall, to the extent necessary, first be applied or used for the purposes therefor prescribed in this section.

"(g) The Secretary shall issue regulations necessary to carry out the provisions of this section.".

ADJUSTMENT OF PRICE SUPPORT LEVEL OF TOBACCO

SEC. 102. Effective for the 1982 and subsequent crops of tobacco, section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445) is amended by adding at the end thereof new subsections (d) and (e) as follows:

"(d) Notwithstanding the provisions of section 403, if the Secretary determines that the supply of any grade of any kind of tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will likely be excessive, the Secretary, after prior consultation with the association through which price support for the grade and kind of tobacco is made available to producers, may reduce the support rate which would otherwise be established for such grade of tobacco after taking into consideration the effect such reduction may have on the supply and price of other grades of other kinds of quota tobacco: *Provided*, That the weighted average of the support rates for all eligible grades of such kind of tobacco shall, after such reduction, reflect not less than (1) 65 per centum of the increase in the support level for such kind of tobacco which would otherwise be established under this section, if the support level therefor is higher then the support level for the preceding crop, or (2) the support level for such kind of tobacco established under this section, if the support level therefor is not higher than the support level for the preceding crop. In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the Secretary shall take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity and stalk position of such tobacco.

"(e) If the Secretary determines that, notwithstanding the adjustments in the support price made under subsection (d), the support rate of any eligible grade of Flue-cured tobacco of a crop for which marketing quotas are in effect or are not disapproved by producers will likely be excessive under current market conditions, the Secretary, after prior approval of the association through which price support for Flue-cured tobacco is made available to producers and after prior consultation with any other association through which price support for any other major quota kind of tobacco is made available to producers, may designate such grade of tobacco as 'excessively priced'. If a grade of tobacco is so designated, the Secretary shall provide producers the option of marketing such grade of tobacco only at a special auction to be provided for by the Secretary. If a producer elects such option, the producer's tobacco of such grade shall be ineligible for price support. With prior approval of the association, producers of ineligible grades of Flue-cured tobacco may also market such grades at the special auction provided for by the Secretary. Any tobacco which is marketed at such special auction shall, notwithstanding any other provision of law, not be considered marketed for purposes of marketing or poundage quotas and penalties under subtitle B, part I, of the Agricultural Adjustment Act of 1938: *Provided*, That a quantity of tobacco equal to the quantity marketed at such special auction shall be deducted from any undermarketings for purposes of such subtitle. In determining whether the support rate for any eligible grade of Flue-cured tobacco of a crop will likely be excessive, the Secretary shall take into consideration the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity and stalk position of such tobacco. For purposes of this subsection, no producer may market at the special auction a quantity of tobacco of any crop in excess of 10 per centum of the farm marketing quota.".

*PENALTIES FOR MARKETING TOBACCO IN EXCESS OF MARKETING QUOTA AND FOR MARKETING CERTAIN TOBACCO THAT IS NOT ELIGIBLE FOR PRICE SUPPORT*

*SEC. 103. Effective for the 1983 and subsequent crops of tobacco, section 314 of the Agricultural Adjustment Act of 1938 is amended by amending the first sentence of subsection (a) to read as follows: "The marketing of (1) any kind of tobacco in excess of the marketing quota for the farm on which the tobacco is produced, or (2) any kind of tobacco that is not eligible for price support under the Agricultural Act of 1949 because a producer on the farm has not agreed to make contributions or pay assessments to the No Net Cost Tobacco Fund or the No Net Cost Burley Tobacco Account as required by sections 106A(d)(1) and 106B(d)(1) of that Act, if marketing quotas for that kind of tobacco are in effect, shall be subject to a penalty of 75 per centum of the average market price (calculated to the nearest whole cent) for such kind of tobacco for the immediately preceding marketing year.".*

## TITLE II—MODIFICATION OF FLUE-CURED TOBACCO MARKETING QUOTA SYSTEM

LEASE AND SALE OF FLUE-CURED TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

SEC. 201. (a) Section 316(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)) is amended by—

(1) inserting "(1)" after "(a)";

(2) inserting "shall permit the owner of any farm to which a Flue-cured tobacco acreage allotment or quota is assigned under this Act and" after "program.";

(3) inserting "Flue-cured," after "Burley,";

(4) inserting a comma before "to lease";

(5) adding at the end thereof the following new paragraph:

"(2)(A) No lease of any Flue-cured tobacco allotment or quota assigned to a farm may be filed under subsection (c) of this section after June 15 of the crop year specified in such lease, except that the Secretary may allow a lease to be so filed after June 15 of such crop year if the Secretary determines that, as a result of flood, hail, wind, tornado, or other natural disaster—

"(i) the county in which such farm is located has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest in such crop year;

"(ii) the lessor involved has suffered a loss of not less than 10 per centum of the acreage of Flue-cured tobacco planted for harvest on such farm in such crop year; and

"(iii) such lease will not impair the effective operation of the tobacco marketing quota or price support program.

If the Secretary makes such determination, then the Secretary may permit the lessor to lease all or any part of such allotment or quota to any other owner or operator of a farm in *the same county or in* an adjoining county within the same State for use in such [adjoining] county on a farm having a current Flue-cured tobacco allotment or quota. If permitted, such lease and transfer shall not be effective until a copy of such lease and a written statement described in subsection (c) of this section are filed with and determined by the county committee of such [adjoining] county to be in compliance with the provisions of this section.

"(B) No agreement or arrangement may be made in connection with the making of any lease with respect to any Flue-cured tobacco allotment or quota under paragraph (1) of this subsection except—

"(i) between the lessor and lessee; or

"(ii) between the lessor or lessee and any attorney, trustee, bank, or other agent or representative, who regularly represents the lessor or lessee, as the case may be, in business transactions unrelated to the production or marketing of tobacco.

"(C) No sublease or other transfer of such allotment or quota may be made by such lessee during the period of such lease."; and

(6) amending the section heading for such section to read as follows:

"LEASE OR SALE OF ACREAGE ALLOTMENTS".

(b) Section 316(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(c)) is amended by—

(1) in the first sentence—

(A) inserting "or sale and transfer" after "lease and transfer"; and

(B) striking out "such lease" and inserting in lieu thereof "the lease or sale agreement, as the case may be,";

(2) striking out the second sentence and inserting in lieu thereof the following: "In the case of a lease and transfer of any Flue-cured tobacco allotment or quota for use with respect to any crop, such lease shall not be effective until, in addition to a copy of such lease, the lessor and lessee involved each file with such county committee a written statement certifying such compliance. If, after notice and an opportunity for a hearing, such county committee determines that such lessee knowingly made a false statement in such written statement, then such lessee shall be ineligible for price support for such crop under the Agricultural Act of 1949 with respect to the poundage of tobacco produced under such allotment or quota or, if such determination is made after such lessee received such price support, the Secretary, taking into consideration the recommendation of such county committee and the amount of such poundage, shall reduce appropriately the poundage for which such lessee may receive price support with respect to the crop first marketed after such determination is made. If, after notice and an opportunity for a hearing, such county committee determines that such lessor knowingly made a false statement in such written statement, then the Flue-cured allotment or quota next established for the farm of such lessor shall be reduced by that percentage which the leased allotment or quota was of the respective Flue-cured marketing quota. Notice of any determination made by a county committee under the preceding provisions shall be mailed, as soon as practicable, to the lessee or the lessor involved. If such lessee or such lessor is dissatisfied with such determination, then such lessee or such lessor may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act."; and

(3) in the third sentence (as in effect before the amendment made by paragraph (2)) by—

(A) inserting "by lease or sale" after "transferred"; and

(B) striking out "lease and".

(c) Section 316(e) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(e)) is amended by—

(1) inserting "(1)" after "(e)";

(2) inserting "or sale" after "lease";

(3) inserting "or, in the case of Flue-cured tobacco, of the acreage of tillable cropland (as defined in paragraph (2)) in the farm" before the colon; and

(4) adding at the end thereof the following new paragraph:

"(2) For purposes of this section, the term 'tillable cropland' means cleared land that can be planted to crops without unusual cultivation or other preparation.".

(d) Section 316 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b) is amended by striking out subsections (g), (h), and (i) and inserting in lieu thereof the following new subsections:

"(g)(1) The Secretary shall permit the owner of any farm to which a Flue-cured tobacco allotment or quota is assigned to sell all or any part of such allotment or quota to any person who is an active Flue-cured tobacco producer for use on another farm in the same county. For purposes of this section, the term 'active Flue-cured tobacco producer' means any person who shared in the risk of producing a crop of Flue-cured tobacco in not less than one of the three years preceding the year involved.

"(2) For purposes of this section, a person shall be considered to have shared in the risk of producing a crop of Flue-cured tobacco if—

"(A) the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop;

"(B) the amount of such person's return on such investment is dependent solely on the sale price of such crop; and

"(C) such person may not receive any of such return before the sale of such crop.

Any person who owns any Flue-cured tobacco allotment or quota and leases such allotment or quota to another person for use in producing a crop shall be considered to have shared in the risk of producing such crop if, under the terms of such lease, subparagraphs (B) and (C) of this paragraph are satisfied with regard to such owner.

"(h)(1) Any person who—

"(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

"(B) with respect to any crop of Flue-cured tobacco planted after the date of such acquisition, fails to share in the risk of producing tobacco under such allotment or quota in the manner specified in subsection (g)(2) of this section;

shall sell such allotment or quota before the expiration of the eighteen-month period beginning on July 1 of the year in which such crop is planted, or such allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

"(2) Any person who—

"(A) acquires any Flue-cured tobacco acreage allotment or quota by purchase under subsection (g) of this section; and

"(B) disposes of an acreage of tillable cropland (as defined in subsection (e)(2) of this section) which results in the total acreage of Flue-cured tobacco allotted to such person's farm exceeding 50 per centum of the tillable cropland owned by such person;

shall, before July 1 of the year after the year of such disposal, take steps which will result in the total acreage of Flue-cured tobacco allotted to such farm not exceeding 50 per centum of the tillable cropland owned by such person. If such person fails to take such steps, then any such excess allotment or quota shall be subject to forfeiture under the procedure specified in paragraph (3) of this subsection.

"(3)(A) If, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with paragraph (1) or (2) of this subsection, then such person shall forfeit to the Secretary the allotment or quota specified in such paragraph. Any allotment or quota so forfeited shall be reallocated by such county committee for use by active Flue-cured tobacco producers (as defined in subsection (g)(1) of this section) in the county involved.

"(B) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.".

MANDATORY SALE OF CERTAIN FLUE-CURED TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS HELD BEFORE ENACTMENT

SEC. 202. The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended by inserting after section 316, a new section 316A, as follows:

"MANDATORY SALE OF CERTAIN FLUE-CURED TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

"SEC. 316A. (a) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on the date of the enactment of this section—

"(1) owns a farm for which a Flue-cured acreage allotment or marketing quota is established under this Act; and

"(2) is not significantly involved in the management or use of land for agricultural purposes;

shall sell such allotment or quota in accordance with section 316(g) of this Act not later than December 1, 1983, or shall forfeit such allotment or quota under the procedure specified in subsection (c).

"(b) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution) who, on December 1, 1983, owns a farm for which the total acreage allotted for the production of Flue-cured tobacco under this Act exceeds 50 per centum of such farm's tillable cropland, as defined in section 316(e)(2) of this Act, shall forfeit any acreage allotment or marketing quota representing the excess under the procedure specified in subsection (c).

"(c)(1) If, after notice and an opportunity for a hearing, the appropriate county committee determines that any person knowingly failed to comply with subsection (a) or (b), then the allotment or quota specified in such subsection shall be forfeited and shall be reallocated in the manner provided for in section 316(h)(3)(A) of this Act.

"(2) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person, within fifteen days after notice of such determination is so mailed, may request review of such determination under section 363 of this Act.".

PERIODIC ADJUSTMENT OF YIELD FACTOR FOR FLUE-CURED ACREAGE-POUNDAGE QUOTAS

SEC. 203. Section 317(a) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c) is amended by—

(1) adding at the end of paragraph (2) the following: "Notwithstanding the preceding sentence, in 1983, and at five-year intervals thereafter, the national average yield goal for Flue-cured tobacco shall be adjusted by the Secretary to the past five years' moving national average yield."; [and]

(2) adding at the end of paragraph (4) the following: "Notwithstanding the preceding provisions of this subsection, in 1983, and at five-year intervals thereafter, farm acreage allotments for Flue-cured tobacco for farms in each county shall be adjusted by the Secretary to reflect the increases or decreases in the past five years' moving county average yield per acre, as determined by the Secretary on the basis of actual yields of farms in the county, or, if such information is not available, on such other data on yields as the Secretary may deem [appropriate.".] *appropriate."; and*

*(3) adding at the end of paragraph (6)(A) the following: "Notwithstanding the preceding provisions of this subsection, in 1983 and at five-year intervals thereafter, preliminary farm yields for Flue-cured tobacco farms in each county shall be adjusted by the Secretary by the reciprocal of the factor computed in paragraph (4) of this subsection to adjust farm acreage allotments to reflect increases or decreases in the past five years' moving county average yields.".*

EXEMPTION OF CERTAIN NONQUOTA TOBACCO FROM QUOTA RESTRICTIONS

SEC. 204. Section 320(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314f(b)) is amended by—

(1) striking out in paragraph (3) "and" at the end thereof;

(2) striking out in paragraph (4) the period at the end thereof and inserting in lieu thereof "; and"; and

(3) adding at the end thereof the following new paragraph:

"(5) tobacco when it is nonquota tobacco and produced in a quota area in which the total of the acreage allotments for quota tobacco established for farms is less than twenty acres. Notwithstanding the provisions of section 312(c) of this Act, producers of such nonquota tobacco shall not be eligible to vote in the first referendum for such nonquota tobacco conducted by the Secretary under such section after the effective date of this paragraph.".

CONFORMING AMENDMENTS

SEC. 205. (a) The fifth sentence of section 317(f) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c(f)) is amended by inserting "and sold" after "leased".

(b) Section 703 of the Food and Agriculture Act of 1965 (7 U.S.C. 1316) is amended by—

(1) striking out "lease and" each place it appears;

(2) striking out "lessee" each place it appears and inserting in lieu thereof "transferee";

(3) striking out "lessor" each place it appears and inserting in lieu thereof "transferor"; and

(4) striking out "leased" each place it appears and inserting in lieu thereof "transferred".

EFFECTIVE DATE

SEC. 206. (a) Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act.

(b) The amendments made by this title shall not apply to any lease of a Flue-cured tobacco acreage allotment or marketing quota entered into under the Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) before the date of the enactment of this Act.

## TITLE III—MISCELLANEOUS PROVISIONS RELATING TO BURLEY TOBACCO AND OTHER KINDS OF TOBACCO

MARKETING ASSESSMENTS TO NO NET COST BURLEY TOBACCO ACCOUNT

SEC. 301. Effective for the 1982 and subsequent crops of tobacco, the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) is amended by inserting, following section 106A (as added by section 101 of this Act), a new section 106B as follows:

"MARKETING ASSESSMENTS TO NO NET COST BURLEY TOBACCO ACCOUNT

"SEC. 106B. (a) As used in this section—

"(1) the term 'Burley association' means a producer-owned cooperative marketing association which has entered into a loan agreement with the Corporation to make price support available to producers of Burley tobacco;

"(2) the term 'Burley Account' means an account established by and in the Corporation for a Burley association, which account shall be known as the 'No Net Cost Burley Tobacco Account';

"(3) the term 'to market' means to dispose of Burley tobacco by voluntary or involuntary sale, barter, exchange, gift inter vivos, or consigning the Burley tobacco to a Burley association for a price support advance;

"(4) the term 'net gains' means the amount by which total proceeds obtained from the sale by a Burley association of a crop of Burley tobacco pledged to the Corporation for price support loan exceeds the principal amount of the price support loan made by the Corporation to the Burley association on such crop, plus interest and charges;

"(5) the term 'Burley tobacco' means Burley tobacco, as defined in section 301(b)(15) of the Agricultural Adjustment Act of 1938, for which marketing quotas are in effect or for which marketing quotas are not disapproved by producers;

"(6) the term 'area', when used in connection with a Burley association, means the general geographical area in which farms of the producer-members of such Burley association are located, as determined by the Secretary; and

"(7) the term 'Corporation' shall have the meaning given to it in section 106A(a)(2).

"(b) Notwithstanding section 106A, the Secretary shall, upon the request of any Burley association, and may, if the Secretary determines, after consultation with such Burley association, that the accumulation of the No Net Cost Tobacco Fund for such Burley association under section 106A is, and is likely to remain, inadequate to reimburse the Corporation for net losses which the Corporation sustains under its loan agreement with such Burley association—

"(1) continue to make price support available to Burley producers through such Burley association in accordance with loan agreements entered into between the Corporation and such Burley association; and

"(2) establish and maintain in accordance with this section a No Net Cost Burley Tobacco Account for such Burley association in lieu of the No Net Cost Tobacco Fund established within such Burley association under section 106A.

"(c)(1) Any Burley Account established for a Burley association under subsection (b)(2) shall be established within the Corporation and shall be comprised of amounts paid by producers under subsection (d).

"(2) Upon the establishment of a Burley Account for a Burley association, any amount in the No Net Cost Tobacco Fund established within such Burley association under section 106A shall be applied or disposed of in such manner as the Secretary may approve or prescribe, except that such amount shall, to the extent necessary, first be applied or used for the purposes therefor prescribed in such section.

"(d)(1) If a Burley Account is established for a Burley association under subsection (b)(2), then the Secretary shall require (in lieu of any requirement under section 106A(d)(1)) that each producer of Burley tobacco whose farm is within such Burley association's area shall, as a condition of eligibility for price support, agree, with respect to all Burley tobacco marketed by the producer from the farm, to pay to the Corporation, for deposit in such Burley association's Burley Account, marketing assessments as determined under paragraph (2) and collected under paragraph (3).

"(2) For purposes of paragraph (1), the Secretary shall determine and adjust from time to time, in consultation with such Burley association, the amount of a marketing assessment which shall be imposed, as a condition of eligibility for price support, on each pound of Burley tobacco marketed by a producer from a farm within such Burley association's area. Such amount shall be equal to an amount which, when collected, will result in an accumulation of a Burley Account for such Burley association adequate to reimburse the Corporation for any net losses which the Corporation may sustain under its loan agreements with such Burley association, based on reasonable estimates of the amounts which the Corporation will lend to such Burley association under such agreements and the proceeds which will be realized from the sales of Burley tobacco which are pledged to the Corporation by such Burley association as security for loans.

"(3)(A) Except as provided in subparagraph (B), any marketing assessment to be paid by a producer under paragraph (1) shall be collected from the person who acquired the Burley tobacco involved from such producer but an amount equal to such assessment may be deducted by the purchaser from the price paid to such producer in case such Burley tobacco is marketed by sale.

"(B) If Burley tobacco is marketed by a producer through a warehouseman or other agent, then such assessment shall be collected from such warehouseman or agent who may deduct an amount equal to such assessment from the price paid to the producer. If Burley tobacco is marketed by a producer directly to any person outside the United States, such assessment shall be collected from the producer.

"(e) Amounts deposited in a Burley Account established for a Burley association shall be used by the Secretary for the purpose of ensuring, insofar as practicable, that the Corporation under its loan agreements with such Burley association will suffer, with respect to the crop involved, no net losses (including, but not limited to, recovery of the amount of loans extended to cover the overhead costs of the Burley association), after any net gains are applied to net losses of the Corporation pursuant to subsection (h).

"(f) The Secretary shall provide, in any loan agreement between the Corporation and a Burley association for which a Burley Account has been established under subsection (b)(2), that if the Secretary determines that the amount in such Burley Account or the net gains referred to in subsection (h) exceed the amounts necessary for the purposes of this section, then the Secretary, in consultation with such Burley association, may suspend the payment and collection of marketing assessments under this section upon terms and conditions established by the Secretary.

"(g) With respect to any Burley association for which a Burley Account is established under subsection (b)(2), if a loan agreement between the Corporation and such Burley association is terminated, if such Burley association is dissolved or merges with another Burley association, or if such Burley Account terminates by operation of law, then amounts in such Burley Account and the net gains referred to in subsection (h) shall be applied to or disposed of in such manner as the Secretary may prescribe, except that they shall, to the extent necessary, first be applied to or used for the purposes therefor prescribed in this section.

"(h) The provisions of section 106A(d)(5) relating to net gains shall apply to any loan agreement between a Burley association and the Corporation entered into upon or after the establishment of a Burley Account for such Burley association under subsection (b)(2).

"(i) The Secretary shall issue regulations necessary to carry out provisions of this section.".

MANDATORY SALE OF CERTAIN BURLEY TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS HELD BEFORE ENACTMENT

SEC. 302. (a) The Agricultural Adjustment Act of 1938 (7 U.S.C. 1281 et seq.) is amended by adding after section 316A (as added by section 202 of this Act), a new section 316B, as follows:

"MANDATORY SALE OF CERTAIN BURLEY TOBACCO ACREAGE ALLOTMENTS AND MARKETING QUOTAS

"SEC. 316B. (a) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on the date of the enactment of this section—

"(1) owns a farm for which a Burley tobacco acreage allotment or marketing quota is established under this Act; and

"(2) is not significantly involved in the management or use of land for agricultural purposes;

shall sell, not later than December 1, 1983, such allotment or quota to an active Burley tobacco producer, as defined by the Secretary, for use on another farm in the same county or shall forfeit such allotment or quota under the procedure specified in subsection (b).

"(b)(1) If, after notice and an opportunity for a hearing, the county committee of the county referred to in subsection (a) determines that any person knowingly failed to comply with such subsection, then the allotment or quota specified in such subsection shall be forfeited and shall be reallocated by

such county committee to other active Burley tobacco producers, as defined by the Secretary, for use in such county.

"(2) Notice of such determination shall be mailed, as soon as practicable, to such person. If such person is dissatisfied with such determination, then such person may request, within fifteen days after notice of such determination is so mailed, a review of such determination by a local review committee under section 363 of this Act.".

POUNDAGE QUOTAS FOR DARK AIR-CURED TOBACCO AND FOR FIRE-CURED TOBACCO; MODIFICATION OF LEASING OF POUNDAGE QUOTAS FOR BURLEY TOBACCO

SEC. 303. (a) Section 301(b)(15) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)(15)) is amended by striking out the period at the end thereof and inserting in lieu thereof ": *And provided further*, That for purposes of section 319 of this title, types 22 and 23, fire-cured tobacco shall be treated as one 'kind of tobacco'.".

(b) Section 319(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(b)) is amended by—

(1) in the first sentence, inserting "for burley tobacco" after "in effect";

(2) in the second sentence—

(A) inserting "for burley tobacco" after "basis"; and

(B) inserting "for burley tobacco" after "in effect";

(3) in the fourth sentence, striking out "such kind of" and inserting in lieu thereof "burley";

(4) in the proviso to the fifth sentence, inserting "for burley tobacco" after "determined"; and

(5) striking out the subsection designation "(b)".

(c) Section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e) is amended by inserting before subsection (c) the following new subsection:

"(b) Notwithstanding any other provision of law, the Secretary shall, not later than February 1, 1983, proclaim national marketing quotas for dark air-cured tobacco and for fire-cured tobacco, types 22 and 23 (hereinafter in this section referred to as 'fire-cured tobacco') for the [two] *three* marketing years beginning October 1, 1983, and determine and announce the amount of the marketing quota for dark air-cured and for fire-cured tobacco for the marketing year beginning October 1, 1983, as provided in this section. Within thirty days following such proclamation, the Secretary shall conduct a referendum of the farmers engaged in the production of the 1982 crop of each of such kinds of tobacco to determine whether they favor or oppose the establishment of farm marketing quotas on a poundage basis for such kind of tobacco as provided in this section for the three marketing years beginning October 1, 1983, in lieu of quotas on an acreage basis in effect for the two marketing years beginning October 1, 1983. If the Secretary determines that one-half or more of the farmers voting in such referendum approve marketing quotas on a poundage basis for such kind of tobacco, then marketing quotas as provided in this section shall be in effect for such kind of tobacco for the three marketing years beginning October 1, 1983, and marketing quotas on an acreage basis shall cease to be in effect for such kind of tobacco for the two marketing years beginning on October 1, 1983. If marketing quotas on a poundage basis are not approved for such kind of tobacco by at least one-half of the farmers voting in such referendum, then quotas on an acreage basis shall be in effect for such kind of tobacco for the two marketing years beginning October 1, 1983.

"If marketing quotas on an acreage basis are in effect for any such kind of tobacco, if, for a period of not less than three marketing years, a referendum has not been held under this section to determine whether producers of such kind of tobacco favor marketing quotas on a poundage basis for such kind of tobacco, and if the Secretary, after conducting public hearings in the area in which such kind of tobacco is produced, ascertains that producers and other interested persons favor marketing quotas on a poundage basis for such kind of tobacco, then the Secretary shall, at the time of the next announcement of the amount of the national marketing quota, announce national marketing quotas for the next three succeeding marketing years under this section. Within thirty days of such proclamation, the Secretary shall conduct a referendum of farmers engaged in the production of the most recent crop of such kind of tobacco to determine whether they favor the establishment of marketing quotas on a poundage basis for such kind of tobacco as provided in this section for the next three succeeding marketing years. If the Secretary determines that more than one-half of the farmers voting in such referendum approve marketing quotas on a poundage basis under this section, then quotas on that basis shall be in effect for the next three succeeding marketing years and the marketing quotas on an acreage or acreage poundage basis shall cease to be in effect at the beginning of such three-year period. If marketing quotas on a poundage basis are not approved by more than one-half of the farmers voting in such referendum, then the marketing quotas on an acreage basis shall continue in effect as theretofore proclaimed under this Act.

"The Secretary shall determine and announce, not later than the February 1 preceding the second and third marketing years of any three-year period for which marketing quotas on a poundage basis are in effect for any such kind of tobacco under this section, the amount of the national marketing quota for such kind of tobacco for each of such years. If marketing quotas on a poundage basis have been made effective for such kind of tobacco under this section, then the Secretary shall, not later than February 1 of the last of three consecutive marketing years for which marketing quotas are in effect for such kind of tobacco under this section, proclaim a national marketing quota for such kind of tobacco for the next three succeeding marketing years as provided in this section. The Secretary shall conduct extensive hearings in the area in which such kind of tobacco is produced to ascertain whether producers favor marketing quotas on an acreage basis or on a poundage basis and shall proclaim the quota on the basis he determines most producers of such kind of tobacco favor. Within thirty days following such proclamation, the Secretary shall conduct a referendum in accordance with section 312(c) of the Act. If more than one-half of the farmers voting in such referendum oppose the national marketing quotas, then the Secretary shall announce the results and no marketing quotas or price support shall be in effect for such kind of tobacco and the national marketing quota so proclaimed shall not be in effect for the next three succeeding marketing years. Thereafter the provisions of section 312 of the Act *shall* apply: *Provided*, That the national marketing quota and farm marketing quotas for such kind of tobacco shall be determined for such kind of tobacco as provided in this section.".

(d) Section 319(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(c)) is amended by—

(1) in the first sentence—

(A) striking out "burley tobacco" and inserting in lieu thereof "any kind of tobacco for which poundage quotas may be established"; and

(B) inserting "of such kind of tobacco" after "amount" the first place it appears;

(2) in the second sentence, striking out "Any" and inserting in lieu thereof "With respect to burley tobacco, any"; and

(3) in the third sentence—

(A) inserting "for a kind of tobacco" after "in effect";

(B) inserting "with respect to such kind of tobacco" after "reserve" the first place it appears;

(C) inserting "for such kind of tobacco" after "quota" the first place it appears; and

(D) striking out "per centum of the" and inserting in lieu thereof "per centum of such".

(e) Section 319(d) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(d)) is amended by—

(1) in the first sentence—

(A) inserting "for a kind of tobacco" after "proclaimed";

(B) striking out "a burley tobacco acreage allotment" and inserting in lieu thereof "an acreage allotment for such kind of tobacco"; and

(C) inserting ", in the case of burley tobacco, and October 1, 1982, in the case of dark air-cured tobacco and fire-cured tobacco" after "1970"; and

(2) in the second sentence—

(A) inserting ", in the case of burley tobacco, and the 1978 crop year, in the case of dark air-cured tobacco and fire-cured tobacco" after "crop year";

(B) striking out "burley tobacco" the first place it appears and inserting in lieu thereof "the kind of tobacco involved";

(C) striking out "burley tobacco" in each of the second, third, fourth, and fifth places it appears and inserting in lieu thereof "such kind of tobacco"; and

(D) striking out the period at the end thereof and inserting in lieu thereof ", in the case of burley tobacco, and three thousand pounds per acre, in the case of dark air-cured tobacco and fire-cured tobacco: *And provided further*, That, when a marketing quota program for dark air-cured tobacco or for fire-cured tobacco is first established under this section, farm yields so determined with respect to dark air-cured tobacco or fire-cured tobacco, as the case may be, shall be adjusted proportionately so that the weighted average of such farm yields is equal to the national average yield goal for dark air-cured tobacco or fire-cured tobacco, as the case may be.".

(f) Section 319(e) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(e)) is amended by—

(1) inserting after the first sentence the following: "A preliminary farm marketing quota shall be determined for each farm for which a dark air-cured tobacco or fire-cured tobacco acreage allotment was established for the marketing year beginning October 1, 1982, by multiplying the farm yield determined under such subsection by the farm acreage allotment (prior to any such reduction) established for such farm for the marketing year beginning October 1, 1982.";

(2) in the third sentence (as in effect before the amendment made by paragraph (1)), striking out "burley tobacco marketing quotas" and inserting in lieu thereof "marketing quotas for the kind of tobacco involved"; and

(3) in the sixth sentence (as in effect before the amendment made by paragraph (1))—

(A) striking out "burley tobacco experience of the farm operator" and inserting in lieu thereof "experience of the farm operator with respect to the kind of tobacco involved"; and

(B) striking out "production of burley tobacco" each place it appears and inserting in lieu thereof "production of such kind of tobacco".

(g) The first sentence of section 319(f) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(f)) is amended by—

(1) inserting "for any kind of tobacco" after "in effect"; and

(2) striking out "burley tobacco" and inserting in lieu thereof "such kind of tobacco".

(h) Section 319(g) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(g)) is amended by—

(1) inserting "for any kind of tobacco" after "in effect";

(2) striking out "burley tobacco" and inserting in lieu thereof "such kind of tobacco"; and

(3) in the third proviso—

(A) striking out "fifteen thousand pounds" and inserting in lieu thereof "thirty thousand pounds"; and

[(B) inserting "with respect to burley tobacco and not more than fifteen thousand pounds may be leased and transferred to any farm under this section with respect to any other kind of tobacco" after "section".]

*(B) inserting "with respect to burley tobacco" after "section".*

(i) Section 319(i) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e(i)) is amended by—

(1) in the proviso to paragraph (1), striking out "burley tobacco" and inserting in lieu thereof "the kind of tobacco involved"; and

(2) in paragraph (3), inserting "with respect to burley tobacco" after "in effect".

(j) The section heading for section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1313e) is amended to read as follows:

"FARM POUNDAGE QUOTAS FOR CERTAIN KINDS OF TOBACCO"

Mr. HUDDLESTON. Mr. President, I commend the Senator from North Carolina, the Senator from Missouri, the Senator from Indiana, and the majority leader, of course, for assisting in working out the arrangement that is included in the unanimous consent request. But let me say just a few words about why we are here at all with this particular piece of legislation.

We are not here at the volition of the distinguished Senator from North Carolina, the chairman of the Agriculture Committee of the Senate, nor of this Senator from Kentucky, the ranking minority member, the two of us representing the two largest tobacco producing States in the United States. We are not here offering this bill on our behalf, because this could well be termed an antitobacco program bill. This is a bill that imposes upon the tobacco farmers of this country an additional cost.

We are here because of the mandate from the Congress of the United States. Last year, in the consideration of the omnibus farm bill, Congress adopted an amendment that required certain things. The Secretary of Agriculture was required to take such administrative action as he could within the law to eliminate any possible cost of the tobacco price support program to the taxpayers. Having done that, if that did not assure that there would be no cost, the Secretary was to suggest and prepare for Congress legislation that would accomplish that purpose.

Mr. President, I might say that maybe it is a matter of semantics or a technicality but, as of this moment, in my judgment, that mandate has been accomplished. If the Senate wants to delay this measure for the rest of the year or not consider it at all or allow it to be defeated, then the tobacco farmers of Kentucky, Indiana, Missouri, North Carolina, and all of the other States will not have to make the contribution that is going to be necessary to make sure that this is a no-cost program.

The only point I am making is that we are trying to comply with what Congress told us to do. And by "us" I mean those who represent tobacco States and those farmers in those States who participate in the growing and marketing of tobacco.

It has been a good-faith effort. It has been an effort that has encompassed a good amount of soul searching, a good amount of willingness to sacrifice, to make changes, to accept costs that are imposed on no other commodity growers in the country.

The Senator from North Carolina and his colleague held a number of hearings in the State of North Carolina. As ranking minority member of the Agriculture Committee, I attended some of those hearings. I held four hearings in the State of Kentucky, and, as chairman of the Agriculture Committee, the distinguished Senator from North Carolina attended one of those.

Members of the House of Representatives did likewise.

The issue was considered from every angle. There was a willingness among the tobacco growers of this country to assume the responsibility of bearing any possible cost to the taxpayer for the tobacco price support program. They were willing to make the changes necessary to pay out of their pockets, from the meager income that they are able to secure from the growing of this very labor-intensive crop, so that the taxpayers of the United States would not be obligated for any losses that might occur.

There was a thought, too, along the way that, since this was going to be necessary, perhaps there were some other aspects of the program that might be addressed. Some of those who criticize it for this reason or that reason perhaps could be satisfied that the effort would be made to eliminate some of those objections, too.

So this process continued right up until very recently when the bill was presented in the House, passed, and sent to the Senate.

Between the time of the hearings and the time of the introduction of the legislation, there were hundreds of hours in meetings by individuals from all parts of the tobacco industry—growers, warehousemen, manufacturers, exporters. They all came together numerous times. Tobacco, like all other products, and certainly like agriculture, itself, is not monolithic. All the interests are not the same. There are conflicts.

But to the best of our ability and to the best of the ability of all those participating, those conflicting interests were addressed as well as they could possibly be.

The speed with which the legislation has moved after being introduced in the House certainly is noteworthy, and obviously is such that it would attract some attention. But as the distinguished chairman of the Agriculture Committee has pointed out, time is of the essence because of the selling season of certain types of tobacco, that generally referred to as Flue-cured tobacco, not because of anything that the Senator from North Carolina or I or, as far as I know, anyone else in this Chamber is interested in accomplishing. There certainly has not been any effort on any of our parts to hide anything from other Members. As a matter of fact, I think the distinguished Senator from Missouri may recall that I have at least on one occasion mentioned to him that this process was in progress and that we were moving toward some legislative proposals to accomplish the objective. I have done the same with other Members of the body.

The interpretation of the Secretary of Agriculture is that the 1982 crop is a crop which has to be under the no-cost requirement. The 1982 crop of Flue-cured tobacco goes on the market early next month, according to the schedule.

If the tobacco co-ops are to be liable for any possible loss resulting from that crop, then they ought to have the opportunity to put in place the mechanism which will provide the reserve fund that helps them discharge that obligation. So it is somewhat important that they be able to begin to assess the growers on the basis of the legislation as the market gets underway.

We, of course, have several recourses, perhaps. We could modify the

legislation and take out the 1982 crop altogether, moving forward to 1983, eliminating both the obligation and the revenue for those years. That may be the only way to go, unless this legislation is enacted expeditiously so that the implementing machinery can be put into place in time to cover the Flue-cured situation.

I just point these things out to indicate to the body that there are realistic reasons for moving with as much dispatch as we possibly can on this particular legislation. In view of the fact that we are here just simply trying to comply with the mandate of the Congress—and not trying to do something on behalf of or in favor of or of special benefit to the tobacco growers of the country—it seems reasonable to expect that some dispatch would be acceptable. However, I recognize that the distinguished Senator from Missouri has been a long observer of the tobacco program and has had a number of ideas over the years of how he believes the program could be improved. He is entitled, of course, to have an opportunity to present his amendments in a reasonable and timely fashion. We do not fault him for that at this point.

I just want to indicate that time is of the essence, even when we come back and address this again after the recess. It will be important that we get into place as quickly as possible the kind of mechanism that will accomplish what we are trying to do here. All I have said about this product and eliminating the cost to the Government, should, I think, be prefaced by the fact that of all of the agricultural programs that the Congress in all of its wisdom has been able to create since the beginning of time, none has been as effective or as helpful to the small farmers of the United States. None has been as cheap to the Federal Government as this particular program. Tobacco itself, as I am reminded, has been extremely profitable to the Federal Government.

The taxing jurisdictions of this country—State, local, and Federal—receive three times as much money from tobacco as that farmer out there who spends virtually a full year, who takes the risks regarding the weather, who makes the investment in a highly labor-intensive crop. He gets one-third as much as the total government for the production of his crop. The Federal Government gets about $2 billion and all taxing jurisdictions get about $6 billion. The farmer gets about $2 billion for growing his crop.

I hope that when we return we will move with dispatch and give prompt consideration to all amendments that may be offered. I hope we are not confronted with further efforts to be punitive to the tobacco industry or the tobacco growers, thousands of whom are small farmers. In my State of Kentucky—and I just drove through it Sunday, as a matter of fact, down through part of my State—tobacco has been set out for a week or two and it is just beginning to grow. You will see little patches. The average size of a tobacco base in the State of Kentucky is approximately an acre and a half. That is not a lot of land. But it makes all the difference in the world to the small farmer. It means the difference many times whether he can stay on the farm or has to go off, whether he can send his children to school or not, and a number of other things. It is a critically economic situation as far as the hundreds of thousands of small tobacco growers throughout the country are concerned.

I thank the Chair.

Mr. HELMS. Will the Senator yield?

Mr. HUDDLESTON. I yield to the Senator from North Carolina.

Mr. HELMS. Mr. President, I compliment my distinguished colleague from Kentucky on his statement. I want to add that no chairman of a committtee could hope for a better ranking minority member than the distinguished Senator from Kentucky.

I think we have waded through what appeared at one time to be a fairly treacherous swamp and I believe it can be resolved now with reasonable satisfaction to all concerned. I did want to compliment my friend (Mr. HUDDLESTON) for the great job he has done.

Of course, I pay my respects and offer my gratitude to the distinguished majority leader, who is always, always so helpful in resolving matters of this kind.

I say further to my friend from Kentucky that today, I was approached by a newspaperman from Kentucky. I think the Senator may want to hear this. He asked me if I thought Senator HUDDLESTON was an effective Senator. I hope that, assuming I shall be quoted correctly, the Senator will be pleased with my response. I thank the Senator for the privilege of working with him and for his effectiveness.

Mr. President, I further thank the Senator from Missouri. TOM EAGLETON is a man of strong convictions. There are times we do not agree but never, with one possible exception, I might say, have we ever disagreed in anything but an agreeable manner. I admire the Senator from Missouri. He is my friend and I am his. I thank him for helping us work out this unanimous-consent agreement.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HELMS. The unanimous-consent agreement is in the usual form; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HELMS. I thank the Chair.

I yield the floor.

Mr. EAST. Mr. President, I support the No Net Cost Tobacco Program Act of 1982.

I support the tobacco price support loan program and the hundreds of thousands of small family farmers who depend on this program for their very existence.

I defended this same issue last fall during debate on the farm bill, and I could talk again of the same figures—but you have heard all of them. Tobacco is a principal cash crop on 276,000 farms in the 22 States. Tobacco brings in more than $6 billion in excise taxes to Federal, State, and local governments. Tobacco exports contribute over $2 billion to the U.S. balance of payments. I could go on and on, but many of my distinguished colleagues have already given these numbers for the record.

Last December an amendment was passed in the House requiring the tobacco program to be operated in such a manner as to result in no net cost to the taxpayer, other than the normal costs associated with the administration of all commodity programs. The vote was 412 to 0. I believe this margin told the supporters of the tobacco program that Congress meant business when they said we had to come up with a "no-cost" tobacco program.

We have been doing just that. Senators and Congressmen from the tobacco States, both Democrats and Republicans, have been working to fine tune the tobacco program and address the issues raised by our critics last year.

There were three main areas of concern that come out of the debates. Those were: one, that the program be operated at no cost to the Government; two, that price support levels be adjusted to make U.S. tobacco more competitive on the world market; and three, that the allotments should be placed in the hands of the growers.

Mr. President, I contend that we have been working to come up with legislation that would address these three main issues. Our legislation goes much farther than any of the proposals last fall, and that fact alone should satisfy our critics.

We have been working on a package, and I shall discuss it briefly. We are proposing a farmer assessment program that would build up a fund to insure against future losses in the tobacco program. The figures we have been talking about would accumulate around $30 million a year for Flue-cured tobacco alone. I think this is a positive indication when the farmers are willing to assess themselves to finance their own program. We have also been working on an adjustment in the price support levels, with greater reductions than were proposed in prior legislation. I believe this will accomplish the goal of keeping our tobacco competitive on the world market. Fi-

nally, we have been seeking ways to move the allotments in a fair and equitable manner into the hands of the growers. We are proposing two ways to do this. First, any person not possessing sufficient tillable cropland would be required to sell their allotment to a grower. This would take care of the utility companies, tree farms, municipalities, housing developments, and so forth. Second, any allotment owner desiring to sell his allotment to an active grower would be permitted to do so. Both of these methods would gradually shift the allotments from the nongrowing allotment owners into the hands of the active growers.

Mr. President, I would like to take just a minute to discuss a report recently released by the General Accounting Office (GAO) entitled "Tobacco Program's Production Rights and Effects on Competition" (CED-82-70). Among other things, the GAO concluded that only 12 percent of the Flue-cured owners grew their own quotas. This implied that the remaining 88 percent leased their quota to someone else who grew it.

I contend that these figures do not accurately indicate what is actually happening, and I offer as proof a letter from John J. Cooper, State executive director of the North Carolina State ASCS Office. I shall ask unanimous consent that this letter be printed in the RECORD. This data is only for North Carolina, but I believe it is still fairly indicative of lease and transfer statistics for all Flue-cured States.

These figures show that 64 percent of the farms in North Carolina transfer some or all of their tobacco quota to other farms, but the amount transferred amounts to only 41 percent of the total poundage quota. This study also indicates that while only 36 percent of the farms actually grow tobacco, the original basic quota on these farms accounts for 59 percent of the total poundage quota. This means that this 59 percent was not involved in the lease and transfer transactions to another farm, and that it was grown of the farm that it was originally assigned to.

Mr. President, I do not seek to criticize GAO, but merely to point out that some of the data can be interpreted differently, depending on what point one is trying to make.

Tobacco is a controversial topic, but we have attempted to take the controversy and the politics out of it. We are earnestly attempting to solve our own problems. I feel that we have addressed the questions raised by our critics. I urge my colleagues to at least give us a chance to implement this no-cost tobacco program that we were mandated by Congress to come up with.

I ask my colleagues, support on this legislation.

I ask unanimous consent that the letter I referred to be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NORTH CAROLING STATE ASCS OFFICE,
*Raleigh, N.C., May 11, 1982.*

Hon. JOHN EAST,
*U.S. Senator, Dirksen Office Building, Washington, D.C.*

DEAR SENATOR EAST: There has been much publicity in the news media about the tobacco program and especially the lease and transfer provision. The publicity centered around a report by GAO and contained some questionable statistics.

I thought you might be interested in the information below which shows the actual lease and transfer data.

NORTH CAROLINA 1981 FLUE-CURED TOBACCO DATA

| | Number farms | Percent | Acreage allotment | Percent | Poundage quota | Percent |
|---|---|---|---|---|---|---|
| Total F-C tobacco | 116,851 | | 378,311 | | 715,518,596 | |
| Transfer from farm (some or all) | 75,100 | 64 | 165,610 | 44 | 296,237,867 | 41 |
| Farms receiving quota | 27,662 | 24 | 212,701 | 56 | 419,280,729 | 59 |
| No lease and transfer | 14,089 | 12 | | | | |
| Producing tobacco | 43,183 | 37 | 353,873 | | | |

Please advise if we may be of further assistance.

Sincerely,

JOHN J. COOPER,
*State Executive Director.*

Mr. EAST. Mr. President, I have already made comments thanking all the parties involved for the great work they have done. I should like to underscore the excellent remarks just made by the distinguished Senator from Kentucky. I think they are most appropriate and on target, and I would not attempt to improve upon them. Again, I indicate my public appreciation to all of the Senators involved who have worked so closely on this matter, including the three distinguished Senators here on the floor with me—the Senator from Missouri, the Senator from Kentucky, and my distinguished colleague from North Carolina.

I must say for the people in my State, in South Carolina, in Kentucky, in all the States, that they accepted it with fairly good grace. Today you find many who think that we have played a good deal of havoc, and I am reminded of one man in my State who said, "Now, what kind of agreement is this? Is this an oral agreement or a written agreement?" I said, "Well, at this point it is oral." And he said, almost like Sam Goldwyn, who was a master of malapropism, "Well, an oral agreement ain't worth the paper it's written on."

Anyway, here we are and we have an agreement. I want to pay my respects again to the Senator from Missouri and to my friend from Kentucky.

I thank the Senator for yielding.

Mr. EAGLETON. I have just a few comments. I thank my colleagues from North Carolina and Kentucky. I am glad that this matter, at least so far as timing and consideration, has been amicably resolved. Just a comment or two, if I may.

As to the mandate that the Congress was under, Senator HUDDLESTON referred to that in his remarks. Yes, there was a mandate. But as all of us know, the mandate was not to consider this bill, in essence, in almost a 48-hour timeframe. I repeat: House passage, under suspension of the rules on Monday, printed in the CONGRESSIONAL RECORD and on Senators' desks on Tuesday; then to be asked to pass such a substantive matter as this on Wednesday or Thursday.

Mr. HUDDLESTON. Will the Senator yield?

Mr. EAGLETON. Yes; I yield.

Mr. HUDDLESTON. The House of Representatives right now is passing a bill which involves maybe a hundred thousand times as much money as we are talking about here and within 15 minutes, not 48 hours or 72 hours, we are going to be voting on it here, on the floor of the Senate.

Mr. EAGLETON. Precisely.

Mr. HUDDLESTON. Sometimes speed, expedition, is not only necessary but highly desirable.

Mr. EAGLETON. That is precisely correct, Mr. President. The bill the Senator from Kentucky is referring to, by the way, has been ping-ponged back and forth between the House and the Senate heaven knows how many times.

The PRESIDING OFFICER. If the Senator will yield, the Chair observes that the bill is on the way back.

Mr. EAGLETON. And the final pong is coming this way shortly.

Mr. HUDDLESTON. But is has changed every time.

Mr. EAGLETON. I suppose we are here to entertain the distinguished Presiding Officer so he does not pass

his time in boredom. The urgent supplemental appropriations bill has not only been considered, it has been overconsidered. H.R. 6590 that we are here to talk about today has been underconsidered or not properly considered.

Also, we have a fine example of the charm of my two colleagues who head up the Senate Committee on Agriculture. They are charming and gracious and they make a remarkable team. Tears almost came to my eyes as I envisioned the team of Senators HUDDLESTON and HELMS holding those vigorous field hearings. Where did they hold them, Mr. President? In North Carolina and Kentucky. My, what a dangerous place to be holding hearings about a tobacco program. That is almost as if the Senate Foreign Relations Committee went to Tel Aviv to hold hearings on whether we should give military aid to Israel.

Did the Agriculture Committee hold any hearings in Washington so that the consumers, people who are concerned about the health effects of tobacco, might find it convenient to testify? No, they went to truly the most safe and secure zones in the country to hold these field hearings.

But I respect them, I admire them. They are two remarkable advocates of their cause.

Senator LONG, of Louisiana, was here just a few moments ago on the floor. I wish he had stayed because, as he likes to tell stories about his uncle, Earl Long, I was going to tell him that I had an Uncle Earl, too. I remember old Earl Eagleton shortly before he passed away at the age of 98. He looked up to me and I think his almost parting remarks were, "Tom, beware of tobacco State Senators bearing gifts."

Mr. HUDDLESTON. Mr. President, the Senator from Missouri, as he is often wont to be, is not only entertaining and gracious, but he makes his point very effectively. The only trouble with the point he has made is that it has no relationship to reality.

Senator EAGLETON's point about the Israelis talking about peace in Lebanon and Tel Aviv is just the opposite of what the Senator from North Carolina and I did in taking tobacco hearings into our States for this particular kind of legislation. As stated at the beginning, we were not there to tell them that we had some legislation for them that was going to put more money in their pockets, or going to make it easier for them to operate. We were there to tell them the opposite.

We said "We have to tell you about some legislation that is going to cost you some money and we want you to think about it. It is going to change the way you are doing business. It is going to add increased burdens on you. It is going to affect possibly what you can do with this valuable asset, a tobacco base, sometime in the future."

So it was not exactly like the Foreign Relations Committee talking to the Israelis in Tel Aviv, but much more like their talking to them in Beirut or some other hostile capital.

Sure, as a matter of fact, that very question was discussed. We thought about whether we should risk going out into the tobacco-growing areas of rural North Carolina or rural Kentucky or have it up here in Washington, where only two or three people could come and testify. Do you know what kind of crowds we had; 700 or 800 or a 1,000 people, all of them with a direct personal interest in what was going on. They all were being told that what is being proposed and what we are having to do because of the mandate—to enact legislation that is going to cost them money, take money out of their pockets.

Mr. HELMS. If the Senator will yield, I know he will agree with me that at times, in Kentucky and in North Carolina, when both Senator HUDDLESTON and I were in those States in hearings, I was worrying about that old business of shooting the messenger for bringing bad news. It was not the easiest thing in the world, I say to Senator EAGLETON, to go down there to say to our people, "we have to revise this tobacco program."

● Mr. MATTINGLY. Is it your understanding that the new program established to help farmers market tobacco which is created under this bill would eliminate all Government exposure to possible losses on the crop loan program because it calls for the growers themselves to assume that risk in the future?

Mr. EAST. That is correct. For any producer to be eligible for a crop loan, he must agree to an assessment of several cents per pound. This money will be held in a common fund and used to reimburse Commodity Credit Corporation for any loan losses. Should losses for any one year exceed assets of the fund, the next year's assessment would be increased to pay the remainder.

Mr. MATTINGLY. Many of our colleagues have expressed a concern about programs which restrict the right to grow certain crops through a Government-created "franchise" called an acreage allotment. How does this bill affect present owners of this "franchise" to grow tobacco and how will any changes help the actual producer of the crop?

Mr. EAST. This legislation takes a much-needed step in removing many of the inequities which have evolved in the system since its inception over 40 years ago. Most farmers are good businessmen who realize that they must sell their product in the marketplace at a competitive price. In recent years the quality and the quantity of tobacco grown by other countries has made it essential that our American growers improve efficiency and keep costs to a minimum. The cost of leasing or renting the "franchise" to grow tobacco has steadily increased and this bill would act to help lower that cost by eliminating the speculation and brokering aspects, while also promoting and encouraging the orderly transfer of these "franchises" into the hands of the actual tobacco grower, thus eliminating his need to make lease or rental payments. The bill also authorizes the Secretary of Agriculture to reduce crop loan levels and to permit special auctions of nonloan tobacco. Both of these features will improve the American growers' competitiveness on the world market.

Mr. MATTINGLY. Is it not also correct that the provisions of this measure will require the immediate transfer of any allotment currently owned by private, public, or governmental entities directly into the hands of other persons who are actively engaged in growing the crop?

Mr. EAST. This is true. Corporations, cities, airport boards, and the like who presently own these "franchises" and who do not presently engage in actual farming of any type will be required to transfer these directly to the growers instead of charging for leases or rentals year after year. Further, anyone who acquires an allotment must use it or lose it in the future. He must maintain an investment of at least 20 percent in the cost of producing the crop.

Mr. MATTINGLY. What about those individuals who do not immediately lose the allotment? How does this new program treat them?

Mr. EAST. I mentioned earlier that this bill provides an incentive for the present, individual "franchise" owner who does not produce tobacco to transfer the right to an active grower. Beginning in 1983 these persons will be required to contribute to the no-loss loan fund just as the farmer who actually grows and sells the crop. This, in conjunction with elimination of speculative fall leasing and of brokering of allotments, will encourage the nonproducer to sell an actual grower.

Mr. MATTINGLY. One final areas we should address is the status of the no-loss loan fund itself. Am I to understand that the stabilization associations who will collect and hold these moneys will not be taxed on such sums, but that any increase earned through interest or otherwise investing fund moneys would be taxable just like any other business profit?

Mr. EAST. That is correct.●

Mr. WARNER. Mr. President, I wish to express my appreciation to the distinguished Senator from Indiana for his cooperation in working this out and to compliment the distinguished Senator from North Carolina and the Senator from Kentucky. I have been

involved in this and I appreciate the opportunity to see things work out.

Mr. President, I rise in support of this legislation, H.R. 6590, amendments to the tobacco program that meet the mandate of the Congress that the tobacco program be operated at no cost to the Government.

This year the House and Senate Agriculture Committees have held 10 hearings to receive testimony about how the program could be changed to insure a no-cost program and to address the problem discussed in the recent GAO report by the Comptroller General.

In my opinion, this legislation is an honest effort to meet all these concerns.

The Congress and the GAO were concerned with the cost to Government. This legislation establishes a no-loss fund in each tobacco association to insure that CCC will sustain no losses from the price-support program.

The GAO is concerned that our tobacco, due to increased cost, is becoming less competitive in the world market. Mr. President, the tobacco farmer is also concerned with this problem, and this legislation provides that the price support formula may be adjusted downward by up to 35 percent of the present formula. This is for two reasons:

First, to reduce the CCC outlays in the amount of price support loans;

Second, to help make U.S. tobacco more competitive in world trade.

The GAO was concerned about the costs of leasing allotments and the ownership of allotments by nonfarmers. The farmers were also concerned and this legislation provides that:

First, entities such as corporations, cities, airports, public utilities, and so forth, which are not possessed of sufficient tillable tobacco acreage must sell their allotment to active producers;

Second, fall leasing of tobacco quotas shall no longer be allowed. This is designed to eliminate speculation in the leasing of quotas and make it more desirable for a person to sell a quota or allotment they do not intend to farm themselves. Also it will serve to reduce leasing rates;

Third, tobacco allotments may be sold by willing sellers to active producers. This will move tobacco quotas into the hands of farmers, serving to further reduce leasing costs;

Fourth, make a technical change to bring established yields in line with actual production capabilities. This will substantially reduce demand for leased poundage, thereby helping to reduce leasing costs.

Mr. President, this legislation is the result of an honest effort by the tobacco farmers to amend the program to meet the desires of this Congress. The farmers are to be congratulated for this effort, and I believe that we should give them our support and pass this bill.

I believe this bill will answer the concerns of the General Accounting Office, that it answers the intent of Congress as expressed in the Agriculture and Food Act of 1981, that the tobacco price support and production adjustment program be carried out at no net cost to the taxpayer.

For these reasons, I urge my colleagues to support this legislation.

The PRESIDING OFFICER. Is there objection to the unanimous consent request? Without objection, it is so ordered.

Mr. BAKER. The request has been granted?

The PRESIDING OFFICER. It is all settled.

Mr. BAKER. I thank the Chair.

The text of the agreement follows:

*Ordered*, That at 10:00 a.m. on Wednesday, July 14, 1982, the Senate proceed to the consideration of H.R. 6590, a bill to provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes, and that debate on any amendment shall be limited to 40 minutes (except three amendments to be offered by the Senator from Missouri (Mr. Eagleton) relative to floor sweeping, sunset of price support, and support price adjustment, respectively, on each of which there shall be 1 hour), to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motions, appeals, or points of order which are submitted or on which the Chair entertains debate shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

*Ordered further*, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from North Carolina (Mr. Helms) and the Senator from Kentucky (Mr. Huddleston), or their designees: *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

## URGENT SUPPLEMENTAL APPROPRIATIONS (H.R. 5922)

Mr. MITCHELL. Mr. President, on Monday the Senate passed the conference report on H.R. 5922, the urgent supplemental appropriations bill. I joined the majority of my colleagues in supporting that measure and want to state the reasons for my vote.

This legislation contains necessary funding for a number of programs that are vital to the State of Maine and the Nation. Many of these programs were drastically reduced last year. This bill will prevent the most severe effects which were not anticipated at that time.

Of special note are the provisions of the bill relating to housing. First, the bill includes $3 billion for the emergency mortgage interest reduction payments program. This new program is aimed at creating jobs and stimulating the construction of single family housing. It comes at a time when the housing and timber industries are devastated by high interest rates and the resultant decline in construction.

The conferees reduced the total amount of funds for this program by $2 billion from the $5 billion level in the Senate bill, thus reducing available program funds. Of that, $2.5 billion is earmarked for mortgages on homes built between the date of enactment and November 30, 1983, $400 million is for homes on which construction began within 1 year prior to the date of enactment and which will be substantially completed by November 30, 1983, and $100 million is for payments to high-cost areas.

I support Senator LUGAR's measure as modified by House-Senate conferees. It should provide some 150,000 jobs in construction and related development and 150,000 jobs in other industries. Further, the Government will derive revenue form this proposal in the form of income and social security taxes from those who go back to work.

I hope the President will not veto the bill because of this provision. It is a modest attempt to revive the economy. And it is all the construction and timber industries will get. For in the last 2 years, Federal housing progams have been cut back more than any other area of the budget. This very bill rescinds $4 billion in housing subsidies and defers another $1.75 million. This means that many section 8 projects in may State, projects that have been on the drawing boards for some time, will not be built or rehabilitated and that many low-income persons will not be served. And the few units of subsidy available this year are not being given to the States through a fair share allocation but through the discretionary reserve of the Secretary of Housing and Urban Development (HUD), making the competition for available dollars severe and without a rational method of distribution.

A third major provision in the housing area is the $198 million for public housing operating subsidies to be added to the $1.15 billion in regular fiscal year appropriations. The bill requires HUD to allocate 90 percent of the total amount of funds according to the Performance Funding System (PFS) formula, leaving the administration no discretion as to the manner of fund distribution.

This action is necessary because of HUD's track record in public housing, one characterized by failure to distribute in a timely manner operating subsidies appropriated in the 1981 supplemental appropriations bill and in the regular 1982 HUD appropriations bill. Public housing authorities have had to resort to litigation to obtain funds appropriated for them by Congress, an extreme step never contemplated by this body, and one which speaks ill of the administration.

The funds to be allocated according to PFS and the utility adjustments should bring public housing authorities up to 98 percent of the funding required under the PFS formula.

I am pleased the conferees have taken this action. Public housing authorities in Maine and across the country have had to live with strained budgets in the last few years as the amount of Federal subsidies needed has been underestimated. HUD's failure to distribute operating subsidies last year only exacerbated an already difficult situation. I hope the Department will act promptly to implement the related provisions in this bill.

## ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I observe the presence of a messenger from the House of Representatives at the door seeking entry, and I yield for that purpose.

The PRESIDING OFFICER. The Senate will receive a message from the House of Representatives.

## MESSAGE FROM THE HOUSE OF REPRESENTATIVES

At 4:59 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House has passed the following bill, with an amendment:

S. 881. An act to amend the Small Business Act to strengthen the role of the small, innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy.

The message also announced that the House insists on its amendments to the bill (S. 2332) to amend the Energy Policy and Conservation Act to extend certain authorities relating to the international energy program, to provide for the Nation's energy emergency preparedness, and for other purposes, disagreed to by the Senate, agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. DINGELL, Mr. SHARP, Mr. MOFFETT, Mr. BROYHILL, and Mr. DANNEMEYER as managers of the conference on the part of the House; and as additional managers solely for the consideration of section 167(f) of the Energy Policy and Conservation Act, as added by section 3(b)(2)(A) of the House amendment and modifications committed to conference: Mr. BREAUX and Mr. FORSYTHE.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6682. An act making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

Mr. BAKER. Mr. President, it is my intention to ask the Senate to proceed to the consideration of H.R. 6682 almost immediately. I am awaiting the arrival of the minority leader, who I understand is on the way to the floor.

In the meantime, Senators who may be listening in their offices should be on notice that this is the supplemental appropriation bill vetoed by the President. It is the so-called fat bill. It is my understanding that it contains everything except the Lugar amendment, the housing amendment.

We have gone over this ground time and again, and it is my hope that if the matter is laid before the Senate, we will proceed to debate it for a minimal length of time and pass it, perhaps even on a voice vote.

I see no point in prolonging the matter, and I am prepared, as soon as the managers are prepared, to proceed to the consideration of this matter.

While we put people in place in order to accomplish that purpose, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MURKOWSKI). Without objection, it is so ordered.

## URGENT SUPPLEMENTAL APPROPRIATIONS, 1982

Mr. BAKER. Mr. President, as I indicated earlier, we have now received the bill from the House, H.R. 6682, which is an urgent supplemental appropriations bill passed by that body after the President's veto was sustained in the House of Representatives.

Mr. President, I ask that the Chair now lay before the Senate H.R. 6682.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6682) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, I will yield the floor almost immediately in favor of the distinguished manager of the bill. The managers I see are here, and I assume they are prepared to proceed.

Mr. President, this is the so-called fat bill. It has everything in it that was adopted by the House of Representatives and the Senate previously except the housing amendment, the Lugar amendment.

I do not know of any reason why we should debate this at length. Indeed, as far as the leadership on this side is concerned, I am prepared to have the shortest type of statement and go directly to a vote. I am even prepared to have a voice vote if that is the will of the Senate.

Mr. President, I yield the floor.

Mr. HATFIELD. Mr. President, the leader has indicated briefly what the bill constitutes. There is nothing further I need to say about it.

It will be acted upon I am hopeful affirmatively and to get it to the White House for action as quickly as possible.

Mr. GARN. Mr. President, the legislative history of the provision contained in this bill is quite complex and, therefore, deserves some clarification. The genesis of the HUD-Independent Agencies provisions in chapter II are derived from the conference agreement on H.R. 5922 as specified in House Report 97-605. The legislative history leading up to the conference agreement can be found in House Report 97-469 and Senater Report 97-402 and the ensuing discussions on the floor of the respective bodies. I also call my colleagues' attention to the remarks in the CONGRESSIONAL RECORD on pages S7181 to S7203 at the time the conference report on H.R. 5922 was debated in the Senate. It is clear that the prior legislative history surrounding the provision currently in H.R. 6682 must be traced back to these sources in order that our action here today be fully understood. I am raising these issues because I have detected a lack of interest on the part of certain executive branch agencies in the congressional intent behind various legislative provisions. I can assure my colleagues that this Senator will not condone an attitude of disregard for the intent of the law—whether or not I personally agree with that particular provision of law.

Mr. President, just for the sake of reducing the paperwork burden on some of these legislative historians, I would like to reiterate some of the intent behind the more complex provision contained in chapter II.

### ASSISTED HOUSING

Mr. President, the estimated commitments contained on pages 9 through 13 of House Report 97-605 include actual commitments the Department has entered into since the revised rescission proposal expired on

April 26 as well as those commitments the committee expected the Department to make in 1982. However, the actual commitments contained in the tables reflect action taken through June 2, 1982. Since then the committee has received additional correspondence indicating that other commitments have been made. To the extent that additional commitments exceed those reported through June 2, 1982, the Department should provide for such commitments by decreasing the estimate contained in the tables for both section 8 and non-Indian public housing units.

Mr. President, I ask to insert in the RECORD a table comparing the number of housing units remaining after the rescission with several other base lines.

The table follows:

FISCAL YEAR 1982—ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

| | Units | | | | |
|---|---|---|---|---|---|
| | Public Law 97-101 | Pending request | House | Senate | Conference action |
| Use of authority—Public housing: | | | | | |
| Recaptures | NA | NA | NA | NA | NA |
| New | 16,000 | 150 | 16,000 | 150 | 3,293 |
| Rehabilitation | 4,000 | | 4,000 | 4,000 | 3,000 |
| Indians | 4,000 | 160 | 4,000 | 4,000 | 3,160 |
| Amendments | NA | NA | NA | NA | NA |
| Lease adjustments | NA | NA | NA | NA | NA |
| Modernization | NA | NA | NA | NA | NA |
| Subtotal, public housing | 24,000 | 310 | 24,000 | 8,150 | 9,453 |
| Use of authority—Sec. 8: | | | | | |
| Recaptures | NA | NA | NA | NA | NA |
| New construction: | | | | | |
| Sec. 202 | 15,200 | 14,929 | 14,929 | 14,929 | 14,929 |
| HFDA | 13,000 | | | | |
| FmHA | 4,000 | | | | |
| Other: | | 5,009 | 5,009 | 5,009 | 7,220 |
| Insured | 3,290 | | | | |
| Noninsured | 366 | | | | |
| Subtotal, new | 35,856 | 19,938 | 19,938 | 19,938 | 22,149 |
| Substantial rehabilitation: | | | | | |
| Sec. 202 | 2,000 | 2,004 | 2,004 | 2,004 | 2,004 |
| HFDA | 4,000 | | | | |
| Other: | | | | | |
| Insured | 1,871 | 560 | 560 | 560 | 760 |
| Noninsured | 208 | | | | |
| Subtotal, substantial rehabilitation | 8,079 | 2,564 | 2,564 | 2,564 | 2,764 |
| Moderate rehabilitation: | | | | | |
| Moderate rehabilitation | 8,909 | 720 | 8,909 | 8,909 | 5,000 |
| Property disposition | 10,000 | 10,000 | 10,000 | 10,000 | 10,000 |
| PHA fees | NA | NA | NA | NA | NA |
| Subtotal, moderate rehabilitation | 18,909 | 10,720 | 18,909 | 18,909 | 15,000 |
| Existing: | | | | | |
| Regular | 30,387 | 2,385 | 30,387 | 2,385 | 30,387 |
| Conversions: | | | | | |
| Sec. 23 | 5,000 | 5,000 | 5,000 | 5,000 | 5,000 |
| Rent supplement/RAP | 20,000 | 173,000 | 60,000 | 60,000 | 60,000 |
| Loan management | NA | 5,000 | 5,000 | 5,000 | 5,000 |
| 5-yr opt-outs | NA | 1,000 | 1,000 | | 1,000 |
| PHA fees | NA | NA | NA | NA | NA |
| Subtotal, existing | 55,387 | 186,385 | 101,387 | 72,385 | 101,389 |
| Total: | | | | | |
| Sec. 8 | 118,231 | 219,607 | 142,798 | 113,796 | 141,300 |
| All programs [1] | 142,231 | 219,917 | 166,798 | 121,946 | 150,753 |

[1] The following table summarizes the net change in number of units assisted under the 4 programs included above.

| | Units | | | | |
|---|---|---|---|---|---|
| | Public Law 97-101 | Pending request | House | Senate | Conference |
| Program level | 142,231 | 219,917 | 166,798 | 121,946 | 150,753 |
| Less deobligations | NA | −64,000 | −44,136 | −44,136 | −44,136 |
| Net program level | 142,231 | 155,917 | 122,662 | 77,810 | 106,617 |
| Less conversions | −25,000 | −178,000 | −65,000 | −65,000 | −65,000 |
| Net change in number of units assisted | 117,231 | −22,083 | 57,662 | 12,810 | 41,617 |

Note: In addition the Senate proposal would defer authority into 1983 to add additional units and would provide for the modernization of vacant uninhabitable public housing units as follows:

| | 1983 |
|---|---|
| Sec. 202 | 6,000 |
| Indians | 3,000 |
| Modernization | (5,073) |
| Total | 9,000 |

Mr. GARN. The bill also contains $198 million for fiscal year 1982 public housing operating subsidies in addition to the $1,152,306,000 provided in Public Law 97-101. The bill includes a provision requiring HUD to allocate $1,215,275,400 solely on the basis of the performance funding system (PFS) in such a manner as to assure that each public housing authority receives an equal percentage of its PFS requirement. After this allocation of these funds, the remaining $135,084,600 shall be allocated in such a manner as to encourage energy conservation in accordance with the agreements reached between the public housing authorities and the Department. The conferees have adopted this approach in order to assure that each public housing agency gets a minimum allocation under PFS that they can count on—currently estimated to be 88 percent of PFS.

The conferees on H.R. 5922 were concerned that the Department would not recapture sufficient budget authority to fund the financial adjustment and the cost amendments at the levels necessary in order to buy out the pipeline. Consequently, $1,750,000,000 of fiscal year 1982 funds are designated for FAF and cost amendments in the event that recaptures fell short of the $5 billion level assumed in the conference agreement. The bill includes language requiring this $1,750,000,000 to be merged with the existing recaptures on June 30, 1982, and to be available for supporting FAF and cost amendments. To the extent that the aggregate amount—recaptures plus the $1,750,000,000—exceed the $5 billion assumed, the bill provides that such excess amounts would be deferred for use in fiscal year 1983 in accordance with the provisions of future appropriations acts.

EPA

Mr. President, the bill earmarks $7,000,000 from the Hazardous Response Trust Fund for the Department of Health and Human Services to carry out its Superfund activities. Of this amount, $5,000,000 would be used for continuing staff support at the Department and $2,000,000 for discretionary activities such as health inspections at specific hazardous waste sites.

With these additional funds, the Department will be able to devote more resources to training of State personnel, the purchase of needed lab equipment and other high-priority areas.

NASA

The bill includes a provision establishing minimum amounts to be applied to National Aeronautics and Space Administration programs other than the Space Shuttle. These minimums include $15,400,000 for work on a 30/20 gigahertz test satellite and $264,800,000 for aeronautics research.

Funds for a mission to retrieve and repair the solar maximum scientific satellite presently in orbit are made contingent on the Department of Defense bearing half of the cost of this mission. Based on information requested and received from NASA, the conferees on H.R. 5922 have established $6,600,000 as a minimum amount for DOD to fund. Under this funding level, DOD would be expected to transfer approximately $2,000,000 to NASA in fiscal year 1982, $3,600,000 in fiscal year 1983, and $1,000,000 in fiscal year 1984.

Within the Space Shuttle program, the provision directs NASA to continue preparation of the Centaur for use in the planetary program. It is the clear intent of Congress that all work on lower energy upper stages—the inertial upper stages—for the Galileo and Solar Polar missions be terminated.

The bill also requires NASA to make such funds as necessary to prepare PAD 39-B at the Kennedy Space Center for use by January 1, 1986. If Shuttle schedule or cost would be adversely affected by application of fiscal year 1982 appropriations as specified in the provision, the bill language directs the Administrator of NASA to submit a request to the Appropriations Committees for authority to apply up to $50,000,000 in unobligated balances in the "Construction of Facilities" or the "Research and Program Management" accounts to the Shuttle.

Mr. PROXMIRE. Mr. President, it is with the greatest reluctance that I announce my decision to vote against this urgent supplemental bill. H.R. 6682 as passed by the House is identical to H.R. 5922 except that it does not contain the housing stimulus program. Although this represents a saving of $3 billion in budget authority it is an illusory saving since the bulk of this $3 billion would be paid back to the Government upon the sale of the housing this appropriation would stimulate. In addition hundreds of thousands of jobs would be created, producing a very substantial increase in tax revenues.

But although this revenue-producing housing stimulus program has been stricken from the bill a number of other budget add-ons remain. In fact the bill provides $1.35 billion more than the President has requested. This is just too much of an add-on for this Senator to support a scant 24 hours after the Senate passed a budget resolution calling for substantial spending cutbacks.

On the other hand I understand that the House is also sending us a stripped-down bill including only a very few of the most urgent items contained in H.R. 6682. If the bill before us today is passed by the Senate and vetoed by the President, I will vote for the stripped-down bill which, as I understand it, contains the Proxmire business tax deduction ceiling of $3,000. We can then get on with the vital job of holding the line against excessive Federal spending by withstanding wherever possible the many attractive but deficit-producing budget add-ons that have made it impossible for me to vote for the pending measure.

LABOR-HHS-EDUCATION ITEMS IN NEW URGENT SUPPLEMENTAL

Mr. SCHMITT. Mr. President, I am pleased that the House has passed a new supplemental that retains all the Senate priorities agreed to by the conferees on the vetoed measure, for items under the jurisdiction of the Labor, Health and Human Services, and Education Appropriations Subcommittee.

This bill includes additional funding for summer youth jobs, older workers, community health centers, maternal and child health, nursing research, work incentives, administration of Pell grant assistance, student loan insurance, the ACTION agency, and the Corporation for Public Broadcasting. It also contains funds to prevent furloughs of thousands of Federal workers.

Furthermore, the bill includes provisions preventing efforts to disrupt the Public Health Service Commissioned Corps, language to even out cutbacks in certain higher education student assistance programs, and an amendment to provide for the proper classification of potash mines. It also corrects an error in reconciliation that prevents funding rural health projects, and provides for the Government to carry out its obligations to labs and centers under the National Institute of Education.

Mr. President, these are important matters already agreed to by the Congress. I urge adoption of this new supplemental.

Mr. HATFIELD. Mr. President, I move the adoption of the bill and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on third reading and passage of the bill.

The bill was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. BAKER (after having voted in the negative). Mr. President, I wish to announce that I have a live pair on this vote with the Senator from Penn-

sylvania (Mr. HEINZ). If he were present and voting he would vote "yea." I have voted "nay." I therefore withdraw my vote.

Mr. BAKER. I announce that the Senator from Utah (Mr. HATCH), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Idaho (Mr. MCCLURE), the Senator from Alaska (Mr. STEVENS), the Senator from Idaho (Mr. SYMMS), and the Senator from Wyoming (Mr. WALLOP), are necessarily absent.

Mr. ROBERT C. BYRD. I announce that the Senator from Arkansas (Mr. BUMPERS), the Senator from Nevada (Mr. CANNON), the Senator from California (Mr. CRANSTON), the Senator from Ohio (Mr. GLENN), the Senator from Colorado (Mr. HART), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Ohio (Mr. METZENBAUM), are necessarily absent.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON), would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who have not voted?

The result was announced—yeas 59, nays 26, as follows:

[Rollcall Vote No. 199 Leg.]

YEAS—59

| | | |
|---|---|---|
| Abdnor | Exon | Murkowski |
| Andrews | Ford | Packwood |
| Baucus | Gorton | Pell |
| Bentsen | Hatfield | Pressler |
| Biden | Hawkins | Pryor |
| Boren | Heflin | Quayle |
| Bradley | Hollings | Randolph |
| Burdick | Huddleston | Riegle |
| Byrd, Robert C. | Inouye | Roth |
| Chafee | Jackson | Sarbanes |
| Chiles | Laxalt | Sasser |
| Cochran | Leahy | Schmitt |
| Cohen | Levin | Specter |
| D'Amato | Long | Stafford |
| Danforth | Lugar | Stennis |
| DeConcini | Mathias | Tower |
| Dixon | Matsunaga | Tsongas |
| Dodd | Melcher | Weicker |
| Durenberger | Mitchell | Zorinsky |
| Eagleton | Moynihan | |

NAYS—26

| | | |
|---|---|---|
| Armstrong | Garn | Mattingly |
| Boschwitz | Goldwater | Nickles |
| Brady | Grassley | Nunn |
| Byrd, Harry F., Jr. | Hayakawa | Percy |
| | Helms | Proxmire |
| Denton | Humphrey | Rudman |
| Dole | Jepsen | Simpson |
| Domenici | Kassebaum | Thurmond |
| East | Kasten | Warner |

PRESENT AND GIVING A LIVE PAIR AS PREVIOUSLY RECORDED:

Baker, against

NOT VOTING—14

| | | |
|---|---|---|
| Bumpers | Hatch | Metzenbaum |
| Cannon | Heinz | Stevens |
| Cranston | Johnston | Symms |
| Glenn | Kennedy | Wallop |
| Hart | McClure | |

So the bill (H.R. 6682) was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIRE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## NO FURTHER VOTES TODAY

Mr. BAKER. Mr. President, there will be no more votes this evening.

## ORDER FOR RECESS OF THE SENATE FROM TOMORROW UNTIL TUESDAY, JUNE 29, AT 11 A.M.

Mr. BAKER. Mr. President, we previously had orders entered to provide for a recess or adjournment over until a pro forma session of the Senate on tomorrow and then over until 11 o'clock on Tuesday. I ask unanimous consent that that order be changed so that it reads "recess" and not "recess or adjournment."

The PRESIDING OFFICER. Without objection, it is so ordered.

## ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, there are a number of wrapup items I am told could be attended to. I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not past the hour of 6:15 p.m., in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MAKING THE GRADE

Mr. NUNN. Mr. President, last month the Atlanta Weekly magazine published an article by Eugene H. Methvin entitled, "Making the Grade."

"Making the Grade" details the rise of the University of Georgia to the top ranks of higher education in the United States during the past 15 years. At a time when education at all levels in the United States faces unprecedented challenges, this article offers encouragement to students, parents, and educators. Through foresight and careful, long-range planning, the University of Georgia has grown and prospered through a period of significant economic, demographic, and educational changes.

As the author points out, the success of the University of Georgia can be attributed to a number of academic and political leaders, including President Fred Davison, former chancellor of the board of regents, George Simpson, former Gov. Carl Sanders, and many others. This success has been the product of a cooperative effort that has consistently aimed at achieving excellence in the State university system.

Mr. President, Gene Methvin, the author of this article, is a native Georgian and a graduate of the University of Georgia. He has drawn on his deep personal knowledge of the State and its leaders in writing this perceptive and insightful article. He has also retained his objectivity while providing a detailed and thorough analysis of higher education in Georgia.

I recommend this article to my colleagues as an outstanding example of the success that can be achieved in education with dedicated and talented leadership. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MAKING THE GRADE

(By Eugene H. Methvin)

Sometimes a farmer will keep a "brag patch," a piece of land on which he lavishes extra fertilizer and chemicals and cultivation, so that when a neighbor drops by he can point to a particularly lusty green field or heavy snowburst of cotton or high tonnage of peanuts, and brag.

Fifteen years ago Georgia's political and opinion leaders developed a consensus to make the University of Georgia into a real "brag patch" of state education and push it into the top tier of universities throughout the nation. The decision set into motion a series of revolutions that raged throughout the university system and Georgia's political heirarchy for most of the next decade. But the result is a university in Athens whose merit is recognized nationally.

The transformation began in the late 1960's, when the university went through the greatest expansion in its history. The nation, in its early 1960's "Sputnik response," had poured billions of dollars into higher education and research. Yet little of the money trickled to the South, and congressional investigators found an embarrassing explanation. The money was following the brains, and research talent was simply not found in any great concentration in the Southland, except in North Carolina's "research triangle" of Durham, Chapel Hill and Raleigh.

Governor Carl Sanders set out to change the situation. He named a "blue-ribbon" commission, chaired by Griffin Daily News publisher Quimby Melton, that declared that graduate education and research should have "highest priority" in the state's future higher education effort.

Sanders keynoted his campaign for an improvement in the University of Georgia's status with a speech at the school's 1965 commencement: "The time is near at hand," he said, "when the University of Georgia will become one of the nation's leading institutions. I have dreamed of the day when scholars would refer to Athens in the way they refer to great centers of learning. That day is near at hand. . . ."

The governor, regents and legislators were determined to make the university the "capstone institution" or "flagship" of the university system. The regents, on the recommendation of UGA President O. C. Aderhold, hired George Simpson, a top-echelon research administrator with the National Aeronautics and Space Administration, to be chancellor, chief executive of the university system. They gave Simpson a broad charter, and a promise of powerful support from the legislature.

In the General Assembly, in 1966, was a new kind of legislator, people who had not held office before the U.S. Supreme Court's

knocking down of the old county unit system with its courthouse machine dominance. They included people like Jimmy Carter and Paul Broun.

That year the legislature, enjoying an unprecedented gush of income from a prospering state economy, gave higher education a 72-percent boost in its share of state tax revenues, up to 15.3 percent. The new prosperity made it possible for the first time in years for the regents to give UGA the full dollar share to which it was entitled under the complex formula used to divide the university system's money among its 33 institutions, a formula based on numbers of students. Athens got a whopping 25-percent increase in a single year, up to 37.5 percent of the state's total higher education spending, a peak never equaled before or since.

With the money, Aderhold was able to hire 419 new faculty members, a 50-percent increase in a single year. Within 18 months the faculty doubled. It was a bad time for academic head-hunting. Colleges were shuddering under the postwar baby boom and were hiring anybody with a sheepskin. Aderhold hired hurriedly and sometimes carelessly, he frankly confided, because he feared the legislature might change heart and take back his newfound riches. As a result, while Aderhold got some excellent people, he also got some sour apples who are still causing bellyaches in Athens. But Aderhold did not get to see the revolution through. He retired the next year, mortally ill with cancer.

Simpson recommended, and the regents confirmed, a man named Fred Davison as the new UGA president in 1967. Davison, a former dean of the School of Veterinary Medicine at the university, had demonstrated a talent and tase for administration and research management. In 1966 Simpson has chosen Davison to be his vice-chancellor. Now, in 1967, Davison, a University of Georgia graduate, became the president of his old alma mater.

In large measure, Simpson was the true new president and young Davison his surrogate-in-residence. A brilliant man, Simpson was also a domineering one. Today, 15 years later, a wiser and sadder Davison looks back on his departure from the regents' office in Atlanta and recalls that Simpson told him: "I hate to see you go over to Athens, because I know it means we'll end up enemies." It was a prophetic pronouncement, though at the time Davison could not see or accept its logic.

Davison returned in 1967 to an Athens exploding not only with a doubling faculty but also a student body of 15,000, up a third in three years. The school faced severe growing pains, none worse than in the internal governing and promotion procedures. Aderhold, his dean of faculties, and his business officer had largely run the university by themselves, as a sort of feudal fiefdom. That worked well in a sleepy provincial school but was hardly suited to a large modern university. It had a "good old boy" promotion system, based on the ranking of the departmental dukes and barons in the king's court.

With Simpson's backing and tutelage, Davison replaced the rigid centralized administration with the kind of decentralized system used at other major institutions, in which the faculty organizes into committees at the school and college level and makes decisions on budgets, promotions and policy. He installed a promotions system based on performance. In this task he named as his swordbearer and, when necessary, executioner, William Pelletier. A researcher and administrator, Pelletier had built up the chemistry department's research program and installed a first-rate teacher evaluation program relying on both student and peer critiques. Davison made Pelletier his "provost," a kind of deputy president.

Davison and Pelletier went through grueling, endless committee meetings to develop a set of formal guidelines for promotions that put a damper on cronyism and stressed thorough documentation of a candidate's teaching, research and service contributions. In the process, they disrupted a lot of power balances, and the new faculty committees turned down a lot of deans' and department heads' recommendations. The old lions of the faculty viewed the new committees as a threat to their "old boy" connections and status.

Academic institutions are notorious for the persistence, intensity and pettiness of their intrigues and power struggles. Academic politics is the most vicious kind, runs an old maxim, because the stakes are so small. Davison's experience proved that Athens was no exception to the rule. At the very time students were growing quiet again after the rebellions of the 1960's, Georgians were treated to the specticle of their premier university's faculty taking up arms and rushing rebelliously to the barricades. The journalism faculty voted a "no confidence" resolution in their dean, who later resigned. (He had recommended zero raises for 10 faculty members.) The Student Government Association, egged on by some faculty members, entered a no-confidence vote in Davison and called upon the regents to get rid of him. Polls by the senate of the College of Arts and Sciences and the American Association of University Professors among the faculty expressed disapproval of Davison.

Davison's top aide, Pelletier, became a casualty of the campus combat in 1976. As one friendly but detached observer described him, "He was brilliant, but he got along with people like the Ayatollah does." Eventually faculty animosities grew so intense that the oldest of the old lions, the retired and revered Dean of Men, William Tate, called a press conference and denounced Pelletier. Davison yielded, abolished Pelletier's post of provost and returned him to his research in the Chemistry Department. But the system Pelletier installed is still in place and working well.

Chancellor Simpson, Davison's mentor in the early years, became a casualty, too. He ran into a revolution among the regents, a revolution against his imperious manner and ways.

The Board of Regents is composed of 15 people appointed by the governor to staggered seven-year terms. Thus, until Georgians suspended the one-term limit for governors to reelect George Busbee in 1978, no governor could appoint a majority of regents until late in his tenure.

The General Assembly annually gives the regents a huge lump sum, currently $850 million, and allows them to apportion it among the 33 state institutions. So it is the regents, not the politicians, who decide such matters as where to locate junior colleges and how much money to allot them. Thus the regents form a buffer between the sectional interests of legislators and the state's schools.

Chancellor Simpson, who fancied himself a master politician, insisted upon monopolizing the university system's relations with the General Assembly. He did the horsetrading with powerful committee chairmen and others looking for favors, pork-barrel projects for their districts and appointments for family, friends and supporters. He formed a fast alliance with House Speaker George L. Smith of Swainsboro, who was the dominant figure in Georgia politics after the legislature elected Lester Maddox to the governorship in 1967.

With Speaker Smith's death in 1972, Simpson lost his great legislative ally, and with the Carter and Busbee governorships he began to confront a whole new set of younger regents who were ambitious to play a more active role. Moreover, after several years on the job in Athens, and as the man on the spot, Davison was calling his own game at UGA. Davison, in his early years, had done Simpson's bidding and enjoyed Simpson's backing. But as the rumpus in Athens had grown, Simpson had begun to back away. More and more, the two were at odds. In 1976, encouraged by some of the regents, Davison simply told Simpson no on a matter of little significance, and the two split.

Simpson was determined to run the show in Athens from Atlanta and he set out to have Davison's head, according to regents and others involved. He came tantalizingly close. At a board meeting in Athens in 1977, as the regents went into secret session to try to "hash out" the conflict between the two men, one Davison supporter tallied eight or nine votes among the 15 for firing Davison if it came to a showdown. But they managed to avoid a vote for the moment by setting up a mediation subcommittee, with former board chairman Charles Harris of Ocilla as head referee. Thus they avoided a blood sacrifice at a time when public support was badly needed for hiking student academic standards and faculty salaries.

In May 1979, Simpson found himself embroiled in further dispute. The regents rebelled against his insistence on making policies and decisions without consultation. Governor Busbee, who had appointed 10 of the 15 regents, tried to mediate. He worked out a written agreement delineating the board's policymaking prerogatives and Simpson's duty to carry out those policies. But at the last minute Simpson refused to sign. So, despite the strong objections of Busbee, the regents fired their "Iron Chancellor."

For many, his departure was lamentable. "Simpson was the best thing that ever happened to higher education in Georgia," says Harris. "He was tough and hard and made people perform. I fought with him until I got gray hairs all over, but I loved him for his firmness and for what he accomplished for Georgia's children."

Throughout this conflict, as Uncle Remus would say, Davison, "he lay low." But after the ouster, he took one action that advertised his determination to be master in his own house. He fired the graduate school dean, Hardy Edwards, who had been a Simpson partisan. Edwards appealed, but the regents concluded he had been disloyal to his president and hence fair game for academic beheading.

Soon the regents made a serious mistake of their own that almost brought on another revolution, this time by the state legislators against the regents themselves. Determined to end "bossism," they instructed the new chancellor, Dr. Vernon Crawford, an able and experienced administrator recruited from Georgia Tech, to leave dealing with the General Assembly to them.

The legislators thus had no power broker with whom they could "wheel and deal," as

they had with Simpson. So in last summer's special session to draft a new state constitution, Representative Culver Kidd of Milledgeville and other representatives launched a move to remodel the Board of Regents. They proposed cutting the number from 15 to 10, letting legislators select most of them, and cutting their terms from seven to four years. They talked about ending the lump-sum appropriation and doing the apportioning of funds themselves. With last-minute help from Governor Busbee, the regents persuaded the General Assembly to leave the board as was. They subsequently countermanded their "hands-off" order and have instructed Chancellor Crawford to seek a happy medium between Simpson's past monopolization and their own anarchic fumbling of relations with the legislators.

Today the University of Georgia's preeminence in the state and reputation around the nation are well established—a tribute to the success of Governor Sanders' initiative and the efforts of all those who guided the revolution in Athens. The University of Georgia now has 2,000 faculty and 5,000 staff members, and last fall it enrolled an all-time high of 23,198 full-time students. It has the largest freshman class ever, 3,449. A crop of 4,319 graduate students comprised the largest grad group ever. Georgia State University is second in size with 13,449 plus 7,500 part-timers, and Georgia Tech has 11,726. For the last decade UGA has granted nearly 200 doctorate degrees annually, up from seven granted in 1961.

Georgia's taxpayers shell out about $115 million of the university's total budget of $225 million. The students provide less than nine percent and the rest comes from research grants brought in by the faculty or from alumni contributions. UGA won the 1981 award as the outstanding public university in the nation for sustained performance in its annual alumni fund giving; the award is given yearly by the U.S. Steel Foundation and Council for Advancement and Support of Education. UGA was eighth among all universities in total corporate support, raising $11 million. Thus, for every dollar the taxpayers invest, the university faculty, students and alumni raise a matching dollar.

Last year the research budget passed $60 million, and the university ranked, according to the National Science Foundation, 34th in the nation in 1980 in total research spending. The faculty brings in over $20 million of that money from federal and private granting organizations where they must win it in direct competition with other outstanding faculties. Three faculty members are on the National Academy of Sciences: Eugene Odum, who has been instrumental in advancing the science of ecology; Norman Giles, the geneticist; and Glenn Burton, the agronomist.

In the past eight years, five national bodies have published studies listing what they judged to be the nation's top research universities. Their studies were based on factual data, not on opinion or on popularity polls. Only 28 universities appear on all five of these lists—and the University of Georgia is one of them. It is one of only three universities in the Southeast included in all five lists—the others being Duke University and the University of North Carolina at Chapel Hill.

Last fall 220 National Merit and Achievement scholars enrolled in Athens. The university has consistently ranked in the top 29 of all U.S. universities, public and private, in attracting these elite youngsters. Georgia Tech, incidentally, has done even better; it stood number two or three in 1978-80. Both schools also stand near the top in the number of full scholarships they give National Merit and Achievement scholars.

The UGA student body, as a whole, measures up very well, too. In the mid-1970's, when national Scholastic Aptitude Test scores for entering freshmen were in a steady decline nationally, those of UGA's entering freshmen were rising, and have continued to rise ever since. Today their average score is 1,000, compared to the national average of 890.

The development of an outstanding student body is the result of a farsighted but politically unpopular decision made by Davison, Chancellor George Simpson and the regents in the late 1960's. They agreed to put a ceiling on the size of the student body in Athens, holding total enrollment to about 22,000, and freshman admissions to about 2,500 each fall. Athens was to be the capstone of the university system, the graduate teaching and research center, whose mission was to strive for quality above quantity.

This policy, which was stretched to allow this year's record enrollment, has meant that a lot of Georgia parents have been told their youngsters cannot get into the University of Georgia because their grades are too low. One legislator whose son was turned away from the law school groused, "I don't see why we need such a blankety-blank fine law school. It was good enough for me and I don't see why it isn't good enough for my son." The man had to send his son to a law school at a neighboring state university.

However, as a result of this policy, while many other states' universities that ballooned with the postwar "baby boom" are caught in the difficult process of "managing decline," as Fred Davison describes it, UGA, having established itself as a magnet school, is still trying to restrain growth and improve quality.

Today the regents and Davison and UGA face a new challenge. Demands of other schools threaten to undermine UGA's priority position within the university system. The last time Georgians elected a governor, Marietta boosters exacted a pledge from candidate Busbee to promote Kennesaw Junior College to senior college status, which he did in 1978. This year Georgia Southern College boosters want university status for their Statesboro school. Not to be outdone, Valdosta State and West Georgia boosters have formally applied for upgrading, too. And Georgia State University won a close vote to create its own law school, another million-dollar-a-year demand on the budget. The General Assembly bowed to black constituents in Atlanta and middle Georgia boosters and voted $1.5 million each to the new medical schools at Mercer University and Morris Brown College, cash that must inevitably siphon off support from UGA.

Fred Davison does not view these developments with equanimity. Last summer he told the Georgia Press Association, "There has been some talk about a university for south Georgia. But I say the people of south Georgia already have a university. So do the people of east Georgia and west Georgia and middle Georgia and north Georgia. There is one top-quality university for all the people of this state and that is the University of Georgia. And the state can afford only one such quality institution."

## RETIREMENT OF SECRETARY PHIL ALAMPI

Mr. BRADLEY. Mr. President, with deep pride I rise today to call to the attention of my colleagues the extraordinary public service of Dr. Phillip Alampi, the secretary of agriculture of the State of New Jersey. If Phil Alampi made no other contribution, his length of service alone would be worthy of note because he has served as New Jersey's secretary of agriculture for 26 years, longer than any other cabinet member in the history of the State.

During those 26 years the New Jersey Department of Agriculture has had a number of important accomplishments. The division of dairy industry has maintained a stable milk industry with prices which are among the lowest in the Nation. The division of rural resources has worked to retain precious farmlands through both soil conservation and farmland preservation programs. The division of animal health has controlled and eradicated a number of animal diseases, from bovine tuberculosis to horse swamp fever. The division of plant industry has boosted seed production and eliminated harmful plant pests. The division of markets has developed new agricultural products in New Jersey and promoted established ones. Whether it be poultry or peaches, asparagus or apples, soybeans or sweet potatoes, New Jersey agriculture is not only surviving, but it is actually thriving despite enormous economic and environmental difficulties.

The New Jersey Department of Agriculture has accomplished much under Phil Alampi's guidance, but to fully appreciate his contribution to agriculture, you must do more than review the activities of the department—you must talk to the people of New Jersey who have worked with Phil Alampi.

Ask the cranberry growers. Ask the poultry farmers. Ask the nurserymen. Ask the thoroughbred breeders. Ask the vegetable growers. Ask any of the men and women who make New Jersey the "Garden State" and they will tell you of Phil Alampi's contribution as secretary of agriculture.

In addition, turn to the young men and women who will be the farmers of the future. Ask them who has been indispensable in his support for the many agricultural programs at Rutgers, the State University of New Jersey, and they will tell you "Phil Alampi." Ask New Jersey's Future Farmers of America and the 4-H members who has supported their programs and inspired their members, and they will tell you "Phil Alampi." His contribution to agricultural education in New Jersey will help both the farmers of today and the generations to come.

Phil Alampi has served his State well in his official capacity as secretary of agriculture, but he has also not forgotten to serve his community. He has served as president of the National Association of State Departments of Agriculture and he has also served as a Boy Scout merit badge counselor. He has served as chairman of the State soil conservation committee and he has also served as the State brotherhood chairman of the National Conference of Christians and Jews. All in all, Phil Alampi has served as president for 36 different organizations and has received nearly 100 service awards in recent years. Throughout his extraordinary career he has served his State, his community, and he has raised a wonderful family.

At the end of this month Phillip Alampi will retire as New Jersey's Secretary of Agriculture. In thousands of ways Secretary Alampi has touched the lives of New Jerseyites through his important public service. Though he may be retiring from his official position as a member of the Governor's cabinet, I have no doubt that Phil Alampi will continue his noteworthy contributions to his friends, the people of New Jersey.

## MESSAGE FROM THE HOUSE RECEIVED DURING THE RECESS

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of June 23, 1982, the Secretary of the Senate, on June 24, 1982, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled bill:

H.R. 5922. An act making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

Under the authority of the order of the Senate of June 23, 1982, the enrolled bill was signed on June 24, 1982 by the president pro tempore (Mr. THURMOND).

## MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 11:21 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 1482. A act for the relief of Christina Boltz Sidders; and

H.R. 3863. An act to amend the Poultry Inspection Act to increase the number of turkeys which may be slaughtered and processed without inspection under such act, and for other purposes.

The enrolled bills were subsequently signed by the Vice President.

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At 11:54 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 5879. An act to amend chapter 2 of title IV of the Immigration and Nationality Act to extend for 1 year the authorization of appropriations for refugee assistance, and for other purposes;

H.R. 6631. An act to authorize humanitarian assistance for the people of Lebanon; and

H.J. Res. 518. Joint resolution to designate the week commencing with the fourth Monday in June 1982 as "National NCO/Petty Officer Week".

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

At 1:50 p.m., a message from the House of Representatives, announced that the Speaker has signed the following enrolled bill and joint resolutions:

H.R. 3112. An act to amend the Voting Rights Act of 1965 to extend the effect of certain provisions, and for other purposes;

H.J. Res. 230. Joint resolution imploring the Union of Soviet Socialist Republics to allow Dr. Semyon Gluzman and his family to emigrate to Israel; and

H.J. Res. 519. Joint resolution to provide for a temporary increase in the public debt limit.

The enrolled bill and joint resolutions were subsequently signed by the Vice President.

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At 2:47 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House having proceeded to reconsider the bill (H.R. 5922) making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, returned by the President of the United States with his objections; that the bill do not pass, two-thirds of the House of Representatives not agreeing to pass the same.

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At 4:59 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House has passed the following bill, with an amendment:

S. 881. An act to amend the Small Business Act to strengthen the role of the small, innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy.

The message also announced that the House insists on its amendments to the bill (S. 2332) to amend the Energy Policy and Conservation Act to extend certain authorities relating to the International Energy Program, to provide for the Nation's energy emergency preparedness, and for other purposes, disagreed to by the Senate, agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. DINGELL, Mr. SHARP, Mr. MOFFETT, Mr. BROYHILL, and Mr. DANNEMEYER as managers of the conference on the part of the House; and as additional managers solely for the consideration of section 167(f) of the Energy Policy and Conservation Act, as added by section 3(b)(2)(A) of the House amendment and modifications committed to conference: Mr. BREAUX and Mr. FORSYTHE.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6682. An act making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

## HOUSE BILL REFERRED

The following bill was read twice, and referred as indicated:

H.R. 5879. An act to amend chapter 2 of title IV of the Immigration and Nationality Act to extend for 1 year the authorization of appropriations for refugee assistance, and for other purposes; to the Committee on the Judiciary.

## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-973. A resolution adopted by the House of Representatives of the State of Michigan; to the Committee on Appropriations:

"RESOLUTION

"Whereas, The tragedy of child abuse is far too prevalent in our society. It is anticipated that this year 4,000 babies will be beaten to death. This cold fact is even more frightening when one considers that funding for the highly effective National Center on Child Abuse and Neglect is being drastically cut. Last year's funding came to $22.9 million. This year it will be $16.2 million, a reduction of $6.7 million. Next year the amount will be further reduced to $4.6 million in grants to the states with any other federal funding becoming "discretionary"; and

"Whereas, We cannot afford to allow children to be mistreated, abused, and even killed. The health of our society depends largely on how we treat one another and, by this standard, the facts of child abuse show us to be sadly deficient as a people. We must affirm the rights of all to humane treatment and reaffirm commitments already made to conquer the ills of child abuse. The National Center on Child Abuse and Neglect offers one excellent way in which we can achieve these laudable goals. We cannot permit it to languish and die and thus remove this superb hope for abused children, none of whom should ever have to suffer in a land that honors the rights of all to "life, liberty, and the pursuit of happiness"; now, therefore, be it

"Resolved by the House of Representatives, That the Congress of the United States and the President of the United States be memorialized to maintain current funding for the National Center on Child Abuse and Neglect; and be it further

"Resolved, that a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, each member of the Michigan delegation to

the Congress of the United States, and the President of the United States."

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POM-974. A resolution adopted by the House of Representatives of the State of Oklahoma; to the Committee on Armed Services:

"RESOLUTION

"Whereas, the State of Oklahoma is celebrating its seventy-fifth year of statehood; and

"Whereas, in the past, ships have been named for the State of Oklahoma and have served this nation with distinction and bravery; and

"Whereas, there are no longer any commissioned ships named in honor of the State of Oklahoma; and

"Whereas, the year 1982 has been officially designated as Oklahoma's Diamond Jubilee and would be an appropriate time for such recognition.

"Now, Therefore, be it Resolved by the House of Representatives of the 2nd session of the 38th Oklahoma Legislature:

"Section 1. The Legislature of this state hereby memorializes the Congress of the United States to direct that a capital ship of the line, specifically an aircraft carrier, frigate, missile cruiser, destroyer or submarine, be named the USS Oklahoma in honor of Oklahoma's Diamond Jubilee.

"Section 2. Copies of this Resolution shall be distributed to the Clerk of the United States House of Representatives, the Secretary of the United States Senate and the Oklahoma Congressional Delegation.

"Adopted by the House of Representatives the 26th day of May, 1982."

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POM-975. A joint resolution adopted by the Legislature of the State of California; to the Committee on Banking, Housing, and Urban Affairs:

"SENATE JOINT RESOLUTION No. 30

"Whereas, The Veterans' Farm and Home Purchase ("Cal-Vet") program of California has, for many years, successfully assisted California veterans in the acquisition of farms and homes in recognition and gratitude for their sacrifices on behalf of this state and the nation during periods of armed conflict; and

"Whereas, The administration of this program requires the sale of state general obligation bonds to permit the acquisition of farms and homes for purchase by veterans, who then repay the bonds through their amortization contracts; and

"Whereas, In carrying out this program, there is often a lengthy delay between the selection and approval of a farm or home and the availability of permanent Cal-Vet financing due to such things as the demands upon the program and the difficulty of marketing Cal-Vet bonds in an unstable and inflationary market; and

"Whereas, This situation makes it necessary for a Cal-Vet purchaser to arrange for interim financing for an indefinite duration pending the availability of Cal-Vet funds, frequently, in recent experience, for periods in excess of two years; and

"Whereas, The federal Mortgage Subsidy Bond Tax Act of 1980 (P.L. 96-499) provides that the proceeds of qualified veterans' mortgage bonds cannot be used to acquire or replace, that is, refinance, existing loans, except for construction period loans, bridge loans, or similar temporary interim financing, and recent Internal Revenue Service regulations interpreting this act (46 F.R. 34311, July 1, 1981) restrict qualifying temporary interim financing to only that financing having a term of two years or less; and

"Whereas, The intent of Congress, as expressed in its reports on the act, was that programs using tax exempt bonds for mortgage funds for veterans should be permitted to continue; and

"Whereas, This arbitrary and unduly restrictive interpretation by the Internal Revenue Service will be to frustrate that intent and render impossible the funding of most Cal-Vet applications due to the impossibility of meeting this two-year requirement in many cases, and, in addition, these regulations are retroactive to Cal-Vet applications presently pending; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, that the President and Congress of the United States are respectfully memorialized to enact legislation to amend the Mortgage Subsidy Bond Tax Act of 1980 (P.L. 96-499) as necessary to permit interim financing of any duration obtained by a veteran purchaser under the Veterans' Farm and Home Purchase ("Cal-Vet") program of California to qualify under that act for refinancing under Cal-Vet, and to undertake these necessary changes on an urgency basis due to the fact that thousands of Cal-Vet purchasers are directly affected by these restrictive and unreasonable regulations; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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POM-976. A petition from the delegation of State Legislators from New York City urging Congress not to implement a proposal which would deny Federal funds to municipalities that enforce rent control laws; to the Committee on Banking, Housing, and Urban Affairs.

POM-977. A petition from a citizen of Lancaster, Calif., supporting passage of S. 6, to return America's currency to the gold standard; to the Committee on Banking, Housing, and Urban Affairs.

POM-978. A resolution adopted by the House of Representatives of the State of Michigan; to the Committee on Commerce, Science, and Transportation.

"RESOLUTION

"Whereas, Discharged members of the Professional Air Traffic Controllers Organization (PATCO) have suffered extreme hardships, and further prolonging that hardship would serve no constructive purpose; and

"Whereas, The union representing PATCO members has been de-certified and has subsequently filed for bankruptcy; and

"Whereas, The aviation industry's economic loss and the inconvenience to airline customers will continue until the air traffic controller system is re-built; and

"Whereas, The system will take years to re-build, and the hiring and training of new air traffic controllers will only be accomplished at an exorbitant cost at a time of unprecedented national deficit; and

"Whereas, Skilled and qualified professionals who formerly belonged to the now-defunct PATCO union have expressed a willingness and desire to return to their former jobs. Now is the time for understanding and compassion; now, therefore, be it

"Resolved by the House of Representatives, That members of this legislative body hereby memorialize the Congress of the United States to take steps to reinstate former members of the Professional Air Traffic Controllers Organization; and be it further

"Resolved, That copies of this resolution be transmitted to the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Michigan Congressional delegation.

"Adopted by the House of Representatives, May 27, 1982"

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POM-979. A resolution adopted by the Texas and Southwestern Cattle Raisers Association supporting the protection of private lands from federal control; to the Committee on Energy and Natural Resources.

POM-980. A resolution adopted by the North Idaho Chamber of Commerce supporting specifc amendments to water quality laws to assure that the best management practices will once again insure compliance with the State's water quality standards; to the Committee on Environment and Public Works.

POM-981. A resolution adopted by the City Council of McKeesport, Pa., supporting the imposition of steel import limitations as provided for under the provisions of the Trade Act of 1974; to the Committee on Finance.

POM-982. A petition from a citizen of Santa Rosa, Calif., regarding congressional tax breaks and the extension of those tax breaks to all business travelers; to the Committee on Finance.

POM-983. A resolution adopted by the Steel Valley School Board of Directors of Munhall, Pa., concerning massive layoffs due to unfair dumping of foreign steel; to the Committee on Finance.

POM-984. A resolution adopted by the Board of Commissioners of Beaver County, Pa., urging Congress to impose steel import limitations for both carbon and speciality steels under the provisions of the Trade Act of 1974; to the Committee on Finance.

POM-985. A resolution adopted by the Common Council of Hammond, Ind., supporting the imposition of steel limitations under the provisions of the Trade Act of 1974; to the Committee on Finance.

POM-986. A resolution adopted by the Legislative Council of the State of Arkansas; to the Committee on Finance, and the Committee on Labor and Human Resources, jointly, pursuant to the order of February 11, 1982:

"RESOLUTION

"Whereas, legislation proposing the enactment of 'The Public Employee Pension Plan Reporting and Accounting Act of 1982' has been introduced in the Congress of the United States in the form of H.R. 4928 and H.R. 4929 (Senate companion Bills S2105 and 2106); and

"Whereas, federal regulation of this State's public-supported state and local pension systems would increase administrative costs and drain away funds that would otherwise be used to pay benefits; and

"Whereas, federal regulation of state and local public pension systems in Arkansas would slow the initial payment of claims and benefits by imposing federal regulations on procedures, while making the records of the individual members open to public scrutiny; and

"Whereas, the various boards of trustees established to administer the state-supported public retirement and pension plans in

this State are required to maintain the actuarial soundness and prudent investment of the trust funds entrusted to their care; and

"Whereas, the Arkansas retirement laws already provide for disclosure to participants and annuitants under public retirement and pension plans in this State and impose stringent requirements for investment of retirement funds on a prudent basis by the various boards of trustees charged with the administration of such plans, and require that funds received by such boards of trustees be held in trust for retirement and pension plan participants and annuitants, and prohibit diversion of the funds of such systems for other purposes; and

"Whereas, Arkansas statewide public pension plans are in sound acturial condition and are subject to annual acturial evaluation; and

"Whereas, studies of public pension plans made by the federal government show that the great majority of public employees in the United States are covered by sound pension systems but that federal pension systems (even including Social Security) have extremely high unfunded liabilities; and

"Whereas, the proposed legislation would:

"(1) preempt state laws and constitutional provisions which impose strict fiduciary responsibility on public retirement and pension plan trustees;

"(2) make possible the promulgation of federal rules or enactment of future amendments that would, having preempted state protection, permit or require social investing by public funds at the expense of retirement system participants and annuitants;

"(3) impose increased costs and burdens on public retirement systems through its reporting requirements, benefit application procedure requirements, and other provisions that would divert funds from these plans which would otherwise be used to pay benefits;

"(4) permit excessive federal control over state retirement and pension plans through its almost open-ended authority for the Secretary of Labor to issue regulations to accomplish the purposes of the Act;

"(5) make the federal courts the primary interpreter of state pension laws;

"(6) encourage frivolous personal lawsuits against pension fund trustees and advisors that will discourage their uncompensated service to public employees;

"(7) enterfere with the responsibility of boards of trustees as established in state statutes for actuarial projections and benefit cost estimates to the state legislature; and

"Whereas, the proposed federal legislation poses a serious usurpation of the sovereign powers of the state and local governments which were reserved to them under the Separation of Powers provision of the Constitution of the United States; and

"Whereas, such federal legislation infringes upon the inherent right of state and local governments to use their own judgment and discretion in establishing state and local employment, wage and employee benefit standards commensurate with the public funds appropriated therefor and available in the state and local governments for such purposes;

"Now therefore, be it resolved by the Legislative Council of the State of Arkansas:

"That the Arkansas Legislative Council, acting in behalf of the Arkansas General Assembly, respectfully declares its opposition to the passage of the proposed Public Employees Pension Plan Reporting and Accounting Act of 1982 or any other similar Act or variation thereof. Be it further resolved:

"That copies of this Resolution shall be furnished to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, and to all members of the Arkansas Congressional Delegation, with the request that this Resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States. Be it further resolved:

"That the members of the Arkansas Congressional Delegation are urged to use the full influence of their office in opposing the further consideration or enactment of this or similar legislation as being contrary to the interests of the government of the State of Arkansas and its local political subdivisions and of the federal system."

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POM-987. A resolution adopted by the House of Representatives of the Legislature of the State of Texas; to the Committee on Finance and the Committee on Labor and Human Resources, jointly, pursuant to the order of February 11, 1982:

"RESOLUTION

"Whereas, Legislation to enact the Public Employee Retirement Income Security Act has once again been introduced in the Congress of the United States in the form of HR 4928 and HR 4929 (Senate companion bills, S 2105 and S 2106); and

"Whereas, Federal regulation of this state's public pension systems would increase administrative costs, draining away funds that would otherwise be used to pay benefits; and

"Whereas, Federal regulation of this state's public pension system would slow the initial payment of claims and benefits by imposing federal promulgations on procedures, while making the records of individual members open to public scrutiny; and

"Whereas, The State Pension Review Board already supervises the state's public pension plans, insuring their actuarial soundness and prudent investments; and

"Whereas, Texas law already provides for disclosure by these pension plans to their participants and annuitants and for reports by these plans to the State Pension Review Board; and

"Whereas, Article XVI, Section 67, of the Constitution of Texas protects the interests of participants and annuitants of public pension plans by requiring that pension investments be made prudently by pension trustees considering both probable income and safety of capital, by requiring that such funds be held in trust for pension participants and annuitants, by prohibiting diversion of the fund for other purposes, and by requiring that benefits be funded on an actuarially sound basis; and

"Whereas, Texas' statewide public pension plans are in sound actuarial condition; and

"Whereas, The Texas Open Records Act makes information maintained by public pension plans, other than information in individual member files, available to the public as well as to any government entity that wishes to investigate the conduct of their affairs; and

"Whereas, Studies of public pension plans commissioned by the federal government show that the great majority of public employees in the United States are covered by sound pension systems built that federal pension systems (even excluding Social Security) have extremely high unfunded liabilities; and

"Whereas, There is considerable pressure, especially in areas of the nation that are suffering economic hard times, to use public pension funds belonging to the public employees to bail out financially troubled governments and industries with "social" investments made at a lower than appropriate rate of return or posing an excessive risk to the capital of the funds; and

"Whereas, Passage of HR 4929 (S 2106) could prompt the Internal Revenue Service to impose a greater tax liability on death benefits, an income tax on employees for the state contribution, and a tax on investment earnings, drastically cutting the amounts available for benefits; and

"Whereas, The proposed legislation would:

"(1) prempt state laws and constitutional provisons which impose strict fuduciary responsibilities on public pension trustees in Texas and provide other valuable protection to public pension participants and annuitants;

"(2) make possible the promulgation of federal rules or enactment of future amendments that would, having preempted state protections, permit or require social investing by public funds at the expense of retirement system participants and annuitants;

"(3) impose increased costs and burdens on public retirement systems through its reporting requirements, benefit application procedure requirements, and other provisions that will divert funds from these plans that would otherwise be used to pay benefits;

"(4) permit extensive federal control over state pension plans through its almost open-ended authority for the secretary of labor to issue regulations to accomplish the purposes of the Act;

"(5) make the federal courts the primary interpreter of state pension laws;

"(6) encourage frivolous personal lawsuits against pension fund trustees and advisors that will discourage their uncompensated service to public employees; and

"(7) interfere with the responsibility of boards of trustees as established in state statutes and constitutional provisions for actuarial projections and benefit cost estimates to the state legislature; and

"Whereas, The provision for exempting a state from this legislation: (1) applies essentially to the reporting and disclosure sections of the legislation and would not exempt Texas pension participants from the preemption of its statutory constitutional protections; (2) cannot assure Texas of exemption because of the unknown requirements of the federal regulations regarding reporting and disclosure, especially with respect to information made confidential by Texas law; and (3) give the governor of a state power to exempt a state only in accordance with regulations issued by the secretary of labor and subject to the power of the secretary of labor to revoke the exemption; and

"Whereas, Any attempt presently to permit or require social investing of Texas public funds would require a constitutional amendment to be voted on by the people but, if this federal legislation were enacted, such social investing could be permitted or required by federal regulations or a quiet, unobtrusive amendment of federal law; and

"Whereas, In a policy statement adopted at the National Conference of State Legislatures' (NCSL) annual meeting in 1981, the NCSL resolved that "the Public Employee Retirement Income Security Act and any similar proposals be opposed as a serious usurpation of the sovereign power of the

state and local governments"; now, therefore, be it

*Resolved by the House of Representatives,* That the 67th Legislative of the State of Texas, 2nd Called Session, hereby declare opposition to passage of the Public Employee Retirement Income Security Act in any version; and, be it further

*"Resolved,* That the Texas Secretary of State forward official copies of this resolution to the President of the Senate and the Speaker of the House of Representatives of the United States Congress and to all members of the Texas delegation to the Congress with the request that this resolution be officially entered in the Congressional Record as a memorial to the Congress of the United States; and, be it further

*"Resolved,* That the Texas Secretary of State forward official copies of this resolution to the legislatures of the other states with the request that they join this state in opposing the passage of any version of the Public Employee Retirement Income Security Act."

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POM-988. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Finance:

RESOLUTION

"Whereas, The severity of the current national recession has had a devastating impact on almost every sector of our economy, with the housing industry being one of the major casualties. This has led to the unemployment of countless individuals connected with the housing industry, including construction workers and members of the skilled trades as well as people in associated industries, including lumber and materials supply; and

"Whereas, Any improvement in our nation's economy will necessarily be hampered without a corresponding improvement in the housing industry. In view of the lack of any foreseeable decrease in mortgage rates, moreover, swift and strong remedial action on the part of the federal government is called for; now, therefore, be it

"Resovled by the House of Representatives (the Senate concurring). That the members of the Michigan Legislature hereby memorialize the Congress and the President of the United States to take immediate action to provide relief to the housing industry by providing first-time home buyers a credit against their federal income taxes of up to $5400 on the purchase of a home between May 1, 1982, and May 1, 1983, as well as by providing mortgage lenders a credit against their federal income taxes of up to $5400 on any home mortgage loans they make between May 1, 1982, and May 1, 1983,; and be it further

"Resolved, That copies of this resolution be transmitted to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and to the members of the Michigan congressional delegation."

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POM-989. A joint resolution adopted by the Legislature of the State of Washington; to the Committee on Finance:

RESOLUTION

"We, your Memorialists, the House of Representatives and Senate of the State of Washington, in legislative session assembled, respectfully represent and petition as follows:

"Whereas, We believe that appropriate trade agreements will benefit both American producers and consumers by putting needed competition back in certain industries, while finding additional markets for commodities that we produce in surplus in industries that have demonstrated their ability to increase worker productivity; and

"Whereas, The Western states of the United States have a demonstrated ability to produce in surplus abundance many agricultural and forest products at costs which are competitive in almost any foreign market; and

"Whereas, Escalating costs of domestic transportation, and other factors continue to reduce the capability of Western states to develop and expand domestic markets for their major commodities, inhibiting expansion of production and reducing employment and economic potential; and

"Whereas, The export of agricultural and forest products has been a major factor in helping achieve a positive balance of payments in our foreign trade program, and there is great potential for the development of additional foreign markets in Far East nations; and

"Whereas, Notwithstanding the lack of competitive status because of low productivity in the steel industry, or the declining markets and production in the United States automobile industry, the greatest measure of protection for the American consumer is and has always been active competition between various suppliers, not increased trade barriers, tariffs, quotas and protectionism;

"Now, therefore, Your memorialists respectfully pray that the President, the Cabinet, the Administration and the Congress take action to negotiate trade agreements with Far East nations that take into account both our productivty strength and our shortcomings, with recognition that two-way international trade must be mutually beneficial to all parties. We further pray that such agreements recognize our ability to produce vast surpluses of agricultural and forest products that other nations may buy, with our agreement to reduce barriers to the trade in the products those countries have the greatest ability to produce.

"Be it resolved, That copies of this Memorial be immediately transmitted to the Honorable Ronald Reagan, President of the United States, the Secretary of State, the Secretary of Commerce, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the States of Washington, Oregon, and California.

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POM-990. A resolution adopted by the Senate of the State of Alaska; to the Committee on Foreign Relations:

RESOLUTION

"Whereas salmon is the mainstay of the Alaskan fishing industry; and

"Whereas the United Kingdom has been a major importer of Alaska canned salmon; and

"Whereas the United Kingdom has imposed an embargo on Alaska canned salmon to protect the health of British citizens; and

"Whereas, since the embargo was imposed, the State of Alaska has passed legislation that will insure the wholesomeness and quality of Alaska canned salmon; and

"Whereas the continued embargo by the United Kingdom will not further the goal of assuring the wholesomeness of Alaska canned salmon;

"Be it resolved that the Alaska Senate respectfully requests Congress and the President to urge the United Kingdom to lift its embargo of Alaska canned salmon.

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POM-991. A resolution adopted by the Board of County Commissioners of Broward County, Fla. urging the United States and the Union of Soviet Socialist Republics to pursue a complete halt to the nuclear weapons race; to the Committee on Foreign Relations.

POM-992. A petition from a citizen of New York, N.Y urging an end to nuclear war and the arms control race; to the Committee on Foreign Relations.

POM-993. A resolution adopted by the City Council of Trenton, N.J. urging the Congress of the United States, through the New Jersey Congressional Delegation, to limit the nuclear arms race with the Soviet Union; to the Committee on Foreign Relations.

POM-994. A resolution adopted by the City Council of University City, Missouri urging the Congress to enter into a bilateral nuclear weapons freeze with the Soviet Union; to the Committee on Foreign Relations.

POM-995. A resolution adopted by the City Council of Calumet City, Ill. urging the Congress to enter into a bilateral nuclear weapon freeze with the Soviet Union; to the Committee on Foreign Relations.

POM-996. A resolution adopted by the Board of Commissioners of the City of Dothan, Ala. supporting the President's proposed constitutional amendment to allow for prayer to be offered in public schools and institutions; to the Committee on the Judiciary.

POM-997. A concurrent resolution adopted by the General Assembly of the State of Delaware; to the Committee on the Judiciary:

RESOLUTION

"Whereas, Section 1 of the Constitution of the United States gives the federal courts judicial rather than legislative power; and

"Whereas, judicial activism of the federal courts related to school prayer, and busing have exceeded the bounds of judicial power; and

"Whereas, matters related to school prayer and busing are policy decisions for state legislatures and state courts; and

"Whereas, the workload of the federal courts has almost doubled in the last ten years; and

"Whereas, the increased workload prompted each of the nine Justices of the Supreme Court to request in June 1978 that the Congress of the United States reduce the jurisdiction of the Supreme Court; and

"Whereas, Article III of the Constitution grants the Congress complete discretionary authority to change the appellate jurisdiction of the Supreme Court; and

"Whereas, Congress has often exercised its power to change and regulate the appellate jurisdiction of the Supreme Court.

"Now, therefore:

*"Be it resolved,* That the House of Representatives of the 131st General Assembly of the State of Delaware, the Senate concurring therein, respectfully urges the Congress to enact legislation to remove cases involving public school prayer and forced busing to achieve integration from the appellate jurisdiction of the Supreme Court and the original jurisdiction of district courts;

*"Be it further resolved,* That a copy of this Resolution be forwarded to the President of

the United States and to each Member of the Congress of the United States."

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POM-998. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

RESOLUTION

"Whereas, A type of ammunition has been developed and made available, known as the KTW bullet, which will penetrate the combined thickness of four bulletproof vests of the kind used by the President and other officials and policemen; and

"Whereas, These bullets have no legitimate value and threaten the lives of all law enforcement agents and are referred to as "killer bullet"; and

"Whereas, Law enforcement agencies themselves do not use such bullets because they endanger the lives of innocent people who might accidentally be hit by stray or ricocheting bullets; and

"Whereas, These bullets are potentially available to any citizen in any state; now, therefore, be it

*"Resolved by the Senate and Assembly of the State of California jointly,* That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation banning the manufacturing, sale, importation and possession of all bullets which are designed or manufactured primarily for the purpose of penetrating metal or armor; and be it further.

*"Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

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POM-999. A resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

RESOLUTION

"Whereas, A type of ammunition has been manufactured and offered for sale known as the KTW bullet which will penetrate the combined density of more than four bulletproof vests used as standard equipment by the United States Secret Service and the California State Police; and

"Whereas, these bullets which have no redeeming value and threaten the lives of all law enforcement agents are referred to as 'Police killer' Bullets; and

"Whereas, Law enforcement agencies themselves do not use such bullets because they endanger the lives of innocent people who might accidentally be hit by such stray or ricocheting bullets; and

"Whereas, The federal government has outlawed 'explosive' bullets which are far less dangerous than the KTW bullet which will penetrate the bodies of several human beings before stopping; now, therefore, be it

*"Resolved by the Assembly of the State of California,* That the Members hereby urge the Legislature of every state and the United States Congress to enact legislation banning the manufacturing, sale, or possession of such bullets; and be it further

*"Resolved,* That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to each member of the California Congressional Delegation and to the presiding officer of each legislative House of each state and enclose copies of any pertinent bill which has passed or is pending in the California Legislature."

POM-1000. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Labor and Human Resources:

RESOLUTION

"Whereas, The world today is increasingly troubled by international strife; and

"Whereas, Relatively recent technological advances have enabled international conflicts to have potentially disastrous consequences for all humankind; and

"Whereas, The resolution of conflicts, whether personal, local, national, or international, can best be accomplished by the use of trained personnel; and

"Whereas, The advances made in the disciplines of psychology, psychiatry, and all manner of behavioral science make it practical to train people to mediate explosive situations effectively in accordance with proven techniques. Formal teaching of such skills could bring a new means of responding to the crises which seems to be ever present; and

"Whereas, The systematic use of trained personnel in the resolution of international conflicts could save this nation and others countless billions of dollars and untold human suffering; now, therefore be it

*Resolved by the Senate (the House of Representatives concurring),* That the Michigan Legislature urges the United States Congress to establish a National Academy of Peace and Conflict Resolution dedicated to training persons in peaceful conflict resolution techniques and their patriotic duty to defend their country when diplomacy and other non-violent methods of conflict resolution have failed; and be it further

*"Resolved,* That copies of this resolution be transmitted to the Speaker of the United States House of Representatives, the President of the United States Senate, and to the members of the Michigan congressional delegation."

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POM-1001. A resolution adopted by the Alameda County Commission on the Status of Women supporting retention of vitality of Title IX as it was originally written; to the Committee on Labor and Human Resources.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary, with amendments:

S. 1739. A bill to amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $25,000 the maximum amount that the United States may pay in settlement of a claim under that Act (Rept. No. 97-482).

By Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry:

H.R. 6590. An act to provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEVIN (for himself, Mr. COHEN, and Mr. KASTEN):

S. 2674. A bill to amend title II of the Social Security Act to require a finding of medical improvement when disability benefits are terminated, to provide for a review and right to personal appearance prior to termination of disability benefits, to provide for uniform standards in determining disability, to provide continued payment of disability benefits during the appeals process, and for other purposes; to the Committee on Finance.

By Mr. PERCY (by request):

S. 2675. A bill to authorize the Secretary of State to reimburse State and local governments for providing extraordinary protection with respect to foreign consular posts located in the United States outside the metropolitan area of the District of Columbia; to the Committee on Foreign Relations.

By Mr. DODD (for himself and Mr. COCHRAN):

S. 2676. A bill to establish a National Hostel System Plan, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. McCLURE (by request):

S. 2677. A bill to amend title I of the Reclamation Project Authorization Act of 1972 (Public Law 92-514; 86 Stat. 964) as amended by Public Law 96-375 (94 Stat. 1507); to the Committee on Energy and Natural Resources.

By Mr. NUNN (for himself, Mr. CHILES, and Mr. RANDOLPH):

S. 2678. A bill to amend title 18 to establish an insanity defense, to establish a verdict of not guilty only by reason of insanity and for other purposes; to the Committee on the Judiciary.

By Mr. DURENBERGER:

S. 2679. A bill to add representatives of town officials to the membership of the Advisory Commission on Intergovernmental Relations; to the Committee on Governmental Affairs.

By Mr. EAST:

S.J. Res. 205. Joint resolution to designate September 1982 as "National Sewing Month."; to the Committee on the Judiciary.

By Mr. BENTSEN:

S.J. Res. 206. Joint resolution entitled "The Flat Rate Income Tax Resolution"; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. NUNN:

S. Res. 419. Resolution authorizing the reprinting of the committee print entitled "NATO: Can the Alliance Be Saved?"; to the Committee on Rules and Administration.

By Mr. ARMSTRONG (for himself, Mrs. HAWKINS, Mr. THURMOND, Mr. MATTINGLY, Mr. HELMS, Mr. SYMMS, and Mr. KASTEN):

S. Con. Res. 109. Concurrent resolution expressing the sense of the Congress that legislation should be passed in order to make the Government Printing Office more cost-effective and efficient; to the Committee on Governmental Affairs.

By Mr. TSONGAS (for himself, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. MOYNIHAN, Mr. D'AMATO, Mr. LEVIN, Mr. DODD, Mr. SARBANES, Mr. INOUYE, and Mr. CRANSTON):

S. Con. Res. 110. Concurrent resolution expressing the sense of the Congress respecting the Secretary of State's recommending continuing extended voluntary departure status for Ethiopian nationals in the United States; to the Committee on the Judiciary.

By Mr. JEPSEN:

S. Con. Res. 111. Concurrent resolution to express the sense of the Congress that the National Endowment for Soil and Water Conservation shall be and is hereby endorsed by the U.S. Congress; to the Committee on Agriculture, Nutrition, and Forestry.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEVIN (for himself, Mr. COHEN, and Mr. KASTEN):

S. 2674. A bill to amend title II of the Social Security Act to require a finding of medical improvement when disability benefits are terminated, to provide for a review and right to personal appearance prior to termination of disability benefits, to provide for uniform standards in determining disability, to provide continued payment of disability benefits during the appeals process, and for other purposes; to the Committee on Finance.

(The remarks of Mr. COHEN and Mr. LEVIN on this legislation and the text of the legislation appear earlier in today's RECORD.)

By Mr. PERCY (by request):

S. 2675. A bill to authorize the Secretary of State to reimburse State and local governments for providing extraordinary protection with respect to foreign consular posts located in the United States outside the metropolitan area of the District of Columbia; to the Committee on Foreign Relations.

REIMBURSEMENT FOR PROTECTION OF CONSULAR POSTS

● Mr. PERCY. Mr. President, by request, I introduce for appropriate reference a bill to authorize the Secretary of State to reimburse State and local governments for providing extraordinary protection with respect to foreign consular posts located in the United States outside the metropolitan area of the District of Columbia.

This legislation has been requested by the Department of State and I am introducing the proposed legislation in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with a section-by-section analysis of the bill and the letter from the Assistant Secretary of State for Congressional Relations to the President of the Senate dated June 10, 1982.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2675

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.*

SECTION 1. It is the intent of Congress that the protection of foreign consular posts and officials located in the United States outside the metropolitan area of the District of Columbia remains the responsibility of State and local governments. But the Congress also recognizes that there are instances of extraordinary protective need when Federal assistance is appropriate, and this act will permit such assistance.

SEC. 2. Whenever the Secretary of State finds it necessary in order to meet United States obligations under the Vienna Convention on Consular Relations, the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, and any other international law or convention to which the United States is a party, he is authorized to request the assistance of State and local governments other than those in the metropolitan area of the District of Columbia in the performance of the following security functions and, in cases of extraordinary need, to reimburse those governments for reasonable expenses associated with:

(a) fixed guards posts at any consular premises or the residences of any consular officers within their jurisdiction, and

(b) protective security details and other extraordinary functions relating to protection of consular premises and officers within their jurisdiction.

In any case in which the State or local government cannot accede to such request for assistance because of a lack of manpower, the Secretary of State is authorized to procure security services notwithstanding any other provision of law of the United States normally applicable to the acquisition of such services, provided that those performing such services are duly authorized to do so in the jurisdiction in question.

SEC. 3. For purposes of this Act,

(a) "Consular premises" means the buildings or parts of buildings and the land ancillary thereto, irrespective of ownership, used exclusively for the purposes of a consulate-general, consulate, vice-consulate or consular agency of a foreign government within the United States;

(b) "Consular officer" means any person entrusted with the exercise of consular functions within the United States and duly notified in that capacity to the Department of State.

SEC. 4. The Secretary of State may issue such regulations as he deems appropriate to carry out the purposes of this Act.

SEC. 5. In addition to funds otherwise available, there are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act for the fiscal year ending on September 30, 1982, and for each succeeding fiscal year.

SECTION-BY-SECTION ANALYSIS

Section 1. This Section states the Congressional intent to reaffirm the historical and constitutional policy of the Federal Government that the several states are responsible for assuring the equal protection of the law to every person within their jurisdiction. This responsibility includes foreign diplomatic and consular personnel. This Section also states that Congress recognizes that the obligations accepted by the Federal Government in the Vienna Convention on Consular Relations sometime impose a heavy burden on the several states and that there are instances of extraordinary protective need when Federal assistance to the states is appropriate. Under 3 USC 202, the Uniformed Division of the Secret Service is responsible for the protection of diplomatic premises within the metropolitan area of the District of Columbia.

Section 2. This section sets out the basic authority of the Secretary of State to request the assistance of state and local governments, other than those in the metropolitan area of the District of Columbia, in the performance of certain enumerated security functions for consular offices. The Secretary is authorized to request this assistance when, in his judgment, it is necessary in order to meet the obligations of the United States under the Vienna Convention on Consular Relations (21 UST 77, TIAS 6820, April 24, 1963), the Convention on the Prevention of Punishment of Crimes Against Internationally Protected Persons, commonly known as the "New York Convention" (28 UST 1975, TIAS 8532, February 20, 1977), and any other international law or convention to which the United States is a party.

It is the expectation of the Congress, as expressed in Section 1, that state and local governments will continue to carry out this responsibility and to bear the cost of this protection. However, this Section also provides that when the Secretary of State has determined that state and local governments have an extraordinary need for financial assistance in order to carry out these responsibilities, the Secretary is authorized to reimburse those governments for reasonable expenses associated with that protection. If the state or local government cannot accede to such a request for assistance because of a lack of manpower, the Secretary is authorized, as a last resort, to procure security services notwithstanding any other provisions of law normally applicable to the acquisition of such services. This section also provides that any private security firm hired by the Secretary under this authority must be duly authorized to perform such services in the jurisdiction in question.

Section 2 also defines the type of assistance which the Secretary is authorized to request, and for which he is authorized to reimburse or procure the services of a private firm. Those are defined as (a) "fixed guard posts at any consular premises or the residences of any consular officers, and (b) "protective security details and other extraordinary functions relating to the protection of consular premises and officers." In practice this will mean two principal things: first, stationary uniformed guards outside the entrance to consular premises and the residence of any consular officials, and secondly, security details to accompany consular officials, while traveling or any other situation requiring protection. Subparagraph b also provides for protection in "other extraordinary functions relating to the protection of consular premises and officers."

It is important to understand that this authority is limited to consular premises outside the metropolitan area of the District of Columbia. Therefore, it will not apply to missions to the United Nations nor to traveling foreign dignitaries. Recent attacks on Turkish consular officials in the United States demonstrate the clear need to protect consular officials.

Section 3. This Section defines "consular premises" and "consular officers" in accordance with the normally accepted definitions under international law.

Section 4. This Section authorizes the Secretary of State to issue the necessary administrative regulations to carry out the law. It is the intention of the Secretary of State to adopt regulations requiring that, prior to reimbursing state and local governments, agreement will have been reached in each case between the Department and the state and local government as to the nature of the services to be provided and as to the total cost. This will provide an effective cost control on expenditures under this authority.

Section 5. This Section authorizes appropriations to carry out the purpose of the Act for Fiscal Year 1982 and subsequent fiscal years.

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DEPARTMENT OF STATE,
*Washington, D.C., June 10, 1982.*

Hon. GEORGE BUSH,
*President of the Senate.*

DEAR MR. PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal to amend Title 22 of the United States Code by adding a new Section 2691 which authorizes the Secretary of State to reimburse state and local governments for providing extraordinary protection to foreign consular posts located in the United States outside the metropolitan area of the District of Columbia.

This proposal is designed primarily to meet United States obligations under the Vienna Convention on Consular Relations, the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, and other international laws and conventions. In essence the legislation would permit the Secretary of State to request urgently extraordinary protective services specified in the proposed legislation for foreign consular personnel from state and local police jurisdictions and agree to pay for such services. It would permit the Secretary to contract for such services from private firms if, at the time the services were needed, state and local authorities were unable to respond. The Secretary is also authorized to adopt regulations implementing this section and it is the intention of the Secretary to require in those regulations that state and local governments may be reimbursed only when there has been a prior agreement as to the type of services to be provided and as to the total cost. This will provide an effective cost control mechanism.

The proposed legislation would not in any way change the constitutional responsibility of states to provide equal protection of the law to all persons within their jurisdiction. It would recognize that there are occasionally extraordinary circumstances in meeting the responsibility for the protection of foreign consular personnel when Federal assistance is appropriate and authorize the Secretary of State to determine when such circumstances exist and to provide Federal assistance. The Congress has already recognized that such extraordinary protection is needed in the cases of the Diplomatic Corps in the metropolitan area of Washington and in New York City and approved legislation to meet the need.

The Office of Management and Budget has advised that there is no objection to the presentation of this legislative proposal to the Congress and that its enactment would be consistent with the Administration's objectives.

With cordial regards,
Sincerely,

POWELL A. MOORE,
*Assistant Secretary for Congressional Relations.*●

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By Mr. DODD (for himself and Mr. COCHRAN):

S. 2676. A bill to establish a national hostel system plan, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL HOSTEL SYSTEM

Mr. DODD. Mr. President, today I am introducing a bill to plan for the development of a national hostel system. I am pleased to have Senator COCHRAN join me as a cosponsor of National Hostel System Plan Act of 1982.

Mr. President, everyone has heard of the dormitory-style European hostel, famous for providing millions of travelers with inexpensive, overnight housing on a first-come, first-served basis. Hostels through Europe have given many visitors opportunities they might otherwise not have had to tour cities and countryside of world renown. Moreover, hostel accommodation is structured so as to encourage a visitor to meet and get to know others from many different nations and backgrounds. In so doing, hosteling fosters invaluable bonds of friendship and camaderie between individuals and among nations.

Like their European counterparts, hostels in this country allow people of all ages to enjoy our great national monuments, parks, and historic cities. Yet tourists both from home and abroad have a complaint about U.S. hostels: They are simply too few and too far between. Whereas visitors to Europe have over 5,000 hostels to choose from in arranging overnight stays, visitors in our country have no more than 280.

Mr. President, we are the only nation in the world with hostels that do not receive some form of governmental recognition or assistance. At present, American Youth Hostels, Inc., a private, nonprofit organization, stands alone in having established a procedure for developing and managing a network of hostels here at home.

This legislation would direct the Secretary of the Interior, working with other Federal agencies and American Youth Hostels, Inc., to draft a national plan for guiding the development and management of hostels. Such a plan would outline ways to encourage businesses and private, nonprofit organizations to operate new hostels, while identifying the role different levels of government might play in encouraging such efforts.

This plan would also assess the present and future demand for hosteling within the United States, listing possible geographic locations ideally suited for expanding existing hostels and building new ones. Finally, the plan would evaluate resources which could be used to establish a hostel system, including vacant buildings on Federal lands that might be converted into hostels and youth employment programs that might provide the labor for such conversions.

The National Hostel System Plan Act would not authorize the expenditure of any additional funds. Rather, it would better direct the use of resources which are now available in order to establish a wider network of hostels within the United States from which all travelers could potentially benefit.

By encouraging the further development of our own hostel system, this legislation would give Americans and foreign visitors alike greater access to our cities and wilderness areas. At present, travelers can bicycle along Connecticut lakes, visit museums in Philadelphia, hike in a Georgia forest, and beachcomb along the Pacific coast, while staying in nearby hostels.

Hostels have become even more important given the rapidly escalating cost of travel in these difficult economic times. Without the inexpensive accommodation offered by hostels, many would not be able to afford some of the trips I just outlined above.

Mr. President, in considering this legislation, it is important to remember that hostels serve everyone. Senior citizens and teenagers have equal opportunity to take advantage of hostel accommodations, as do individual travelers and families. Hostels also accommodate handicapped groups, making trips possible to places as diverse as the Colorado Rockies and Boston.

The concept of a national hostel system has always received strong bipartisan support in Congress and the executive branch.

In closing, I would like to remind my colleagues of something Franklin Roosevelt once said:

> From the time I was nine until I was seventeen I spent most of my holidays bicycling on the continent. This was the best education I ever had; far better than schools. The more one circulates in his travels the better citizen he becomes not only for his own country, but of the world.

I urge my colleagues to join with me in sponsoring this bill to provide young and old alike with the opportunity to gain the kind of education Roosevelt referred to via U.S. hostels. Further developing our hostels will allow those at home and abroad to "see America first." The result can only be increased understanding, cultural awareness, and good will for all.

Mr. President, I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2676

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "National Hostel System Plan Act of 1982".

SEC. 2. (a) The Congress finds that—

(1) hostels provide inexpensive overnight accommodations for bicyclists, hikers, canoeists, and other travelers of all ages;

(2) hostels offer a practical means to facilitate visits to, and enhance the enjoyment of, our Nation's scenic and outdoor recreation resources, historic features and cultural achievements in both rural and highly developed areas of the United States;

(3) for more than sixty years, travelers throughout the world have enjoyed and appreciated the value of hostels;

(4) forty-nine foreign countries have hostel systems which receive various forms of governmental assistance;

(5) no Federal programs exist to support the development of a system of hostels in the United States; and

(6) only one national, nonprofit organization, "American Youth Hostels, Incorporated", the United States representative to the International Youth Hostel Federation, has established a procedure for the development and management of a national system of hostels.

(b) It is the purpose of this Act to provide for the preparation of a National Hostel System Plan—

(1) to guide the development and implementation of a national hostel system,

(2) to encourage the development of hostels by Federal, State, and local governmental agencies, private, nonprofit organizations, and private business, and

(3) to encourage the operation of hostel by private, nonprofit organizations, and businesses.

SEC. 3. (a) The Secretary of the Interior, through the National Park Service, and working in full consultation with the Chief of the Forest Service of the Department of Agriculture, American Youth Hostels, Incorporated, and other interested groups, shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a National Hostel System Plan. The Plan shall be completed no later than two complete fiscal years following the effective date of this Act. The Plan, as a minimum, shall include—

(1) a comprehensive statement of objectives and purposes for a national hostel system to be developed under the Plan;

(2) a nationwide inventory of existing privately and publicly owned or operated hostels, with assessments of positive and negative features of their location and current operation which is designed to improve planning for additional hostels, and to examine how existing hostels might be incorporated into a national system;

(3) a survey and an assessment of the current and potential market demand for hosteling in the United States;

(4) an assessment of the current and potential travel and facility-use customs of Americans and their likely proclivity to utilize a hostel system;

(5) a discussion of the types of areas and specific geographic locations throughout the Nation which appear to be conducive to and practical for the location of hostels in both the short-range and long-range future;

(6) a discussion of the types of facilities which appear to offer practical solutions to the provision of hostels, such as new construction and the renovation and adaptation of existing facilities and structures;

(7) an analysis of the possible options for private and public financing of the construction, renovation, adaptation, and operation of public and private nonprofit hostels;

(8) a thorough evaluation of the feasibility and suitability of using the resources available through appropriate youth employment or conservation programs for developing elements of a national hostel system;

(9) an evaluation of various approaches for the optimum administration and coordination of a national hostel system;

(10) the identification of future roles and functions for all levels of government, affected organizations, and the private sector in the development and operation of a national hostel system;

(11) the exploration of possibilities of affiliating and coordinating efforts with national and international organizations with similar objectives, such as the American Youth Hostels, Incorporated, the YMCA, the YWCA, the International Youth Hostel Federation, and the Federation of International Youth Travel Organizations;

(12) minimum facility and operational standards for hostels, taking into consideration the internationally established standards of the International Youth Hostel Federation;

(13) consideration of the routes of existing or planned national, State, interstate, or local bicycling, riding, and hiking trails and routes of recreational water travel, to include subsystems linking urban areas with Federal, State, and local lands and facilities administered for recreation or other leisure time activities;

(14) priorities for the adaptation of suitable existing structures into hostels, where practicable, including structures which are listed on, or are eligible for listing on, the National Register of Historic Places; and

(15) an inventory of existing structures on Federal lands administered by the Forest Service and the National Park Service, which are potentially suitable for use as hostels and the use of which for such purposes would not be inconsistent with written management plans and objectives. A similar inventory shall be conducted on all other federally owned lands, where practicable.

(b) The Secretary shall provide for full public participation as a part of the development of the Plan.

(c) Every six months after the effective date of this Act until the Plan is submitted to the appropriate committees of the Congress, the Secretary with the cooperation of participation organizations shall submit to such committees a brief and comprehensive written status report on the progress being made toward the completion of the Plan.

(d)(1) The Secretary shall publish notice in the Federal Register of the availability to the public, for review and comment, of the proposed Plan. Sixty calendar days shall be permitted for such public review and comment period.

(2) Within sixty days after the completion of the review procedures set forth in paragraph (1) of this subsection, the Secretary shall incorporate into the Plan such comments and recommendations as the Secretary deems appropriate. The Secretary shall submit the Plan, concurrently with the public's comments and recommendations, to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.

SEC. 4. (a) The Secretary may enter into contracts and cooperative agreements for such technical and professional services and expertise as he deems necessary and appropriate to assist in the preparation of the Plan.

(b) At the request of the Secretary, the head of any Federal agency shall detail to the Secretary, such personnel of that agency as may be necessary to assist the Secretary in preparation of the Plan.

SEC. 5. Effective not later than four years after the effective date of this Act, the Secretary shall ensure that each Statewide Comprehensive Outdoor Recreation Plan, developed pursuant to the provisions of the Land and Water Conservation Fund Act, addresses the issue of the location and development of hostels in a manner consistent with the Plan developed pursuant to section 3 of this Act.

SEC. 6. (a) Nothing in this Act or in any other provision of Federal law, or in any rule or regulation prescribed under Federal law, shall be construed to prohibit the operator of any hostel to which this Act applies from imposing reduced fees to any person based upon such person's membership in American Youth Hostels, Incorporated, or an international affiliate thereof.

(b) Nothing in this Act shall be construed to require (or permit) the development of hostels on federally owned or controlled lands in a manner inconsistent with otherwise applicable provisions of law, rules, regulations, or written management objectives and plans.

(c) Each department and agency of the Federal Government shall cooperate to the fullest extent possible with the Secretary in supplying information, data, and other assistance in furtherance of the purposes of this Act.

SEC. 7. For purposes of this Act, the term—

(1) "hostel" means an inexpensive, supervised overnight facility, whose standards at a minimum, comply with the standards of the International Youth Hostel Federation. Such term includes the land upon which such a facility is situated;

(2) "local government" means any city, county, town, township, parish, village, or other political subdivision of a State which is a general purpose unit of local government. Such term also includes any special park and recreation district authorized under State law;

(3) "Plan" means the National Hostel System Plan;

(4) "private nonprofit organization" means an organization described in section 501(c) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code;

(5) "Secretary" means the Secretary of the Interior;

(6) "State" means any State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands; and

(7) "structure" means a building, barn, cabin, cottage, or any other facility which is suitable for use as a hostel.

SEC. 8. (a) Effective October 1, 1983, there is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

(b) Notwithstanding any other provision of this Act, the authority to enter into contracts, to incur obligations, or to make pay-

ments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

By Mr. McCLURE (by request):

S. 2677. A bill to amend title I of the Reclamation Project Authorization Act of 1972 (Public Law 92-514; 86 Stat. 964) as amended by Public Law 96-375 (94 Stat. 1507); to the Committee on Energy and Natural Resources.

AMENDMENT OF RECLAMATION PROJECT AUTHORIZATION ACT

● Mr. McCLURE. Mr. President, at the request of the administration I am introducing legislation to amend title I of the Reclamation Project Act of 1972. I ask unanimous consent that the letter of May 17, 1982, from Assistant Secretary of the Interior Garrey E. Carruthers, transmitting the draft bill to the Congress and a copy of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
*Washington, D.C., May 17, 1982.*

Hon. GEORGE BUSH,
*President of the Senate,*
*Washington, D.C.*

DEAR MR. PRESIDENT: Enclosed is a draft bill reauthorizing the Closed Basin Division, San Luis Valley Project, Colorado, to provide for a revised mitigation plan. The revised plan is necessary as a result of changed conditions since project authorization. It is also less expensive than the authorized plan and will reduce the project cost by over one million dollars, while still providing for appropriate project mitigation. The revised plan is attached.

We recommend that the bill be referred to the appropriate Committee for consideration and enacted.

The Closed Basin Division was authorized for construction by Public Law 92-514, dated October 20, 1972, and was based on the plan presented in the Secretary's Feasibility Report dated July 1963 and a May 1970 Reevaluation Statement, both of which were printed in House Document No. 91-369. Advance planning studies were initiated in fiscal year 1976 and the Definite Plan Report was approved on November 16, 1979. The project as reauthorized by Public Law 96-375, dated October 3, 1980, provided for: (1) an increased cost ceiling; (2) modification of project plans as shown in the November 16, 1979, Definite Plan Report; and (3) a limited decrease in water level in irrigation and domestic wells outside the project boundary to 2 feet. Construction activities were initiated in fiscal year 1980.

The division is located in the northern part of the San Luis Valley in south-central Colorado in Alamosa and Saguache Counties in a topographic basin called the Closed Basin, north of the towns of Alamosa and Monte Vista. The San Luis Valley is in the uppermost part of the great valley of the Rio Grande. The Closed Basin has a surface area of 2,840 square miles and the basin flows in recent history are confined to the basin and do not drain to the Rio Grande.

The primary purpose of the project is to deliver water to the Rio Grande to assist the State of Colorado in meeting its commitments for water deliveries to the States of New Mexico and Texas under the Rio Grande Compact of 1939 and to assist the United States in meeting its commitments to Mexico under the Rio Grande Convention of 1906. The revised fish and wildlife plan provides for: (1) deliveries of water to the Alamosa National Wildlife Refuge (NWR) and Blanca Wildlife Habitat Area (WHA); (2) establishment of Russell Lakes Waterfowl Management Area (WMA); (3) stabilization of the water level of San Luis Lake at about 890 surface acres; (4) development of recreational facilities at San Luis Lake; and (5) fish and wildlife enhancement. Additional artesian water rights acquired with the proposed mitigation lands will be utilized in the mitigation water supply. The project, utilizing water pumped from an unconfined ground-water aquifer in the Closed Basin, will deliver water through a conveyance channel to the Rio Grande. The ground water being pumped presently is being lost through evaporative processes. The project is being developed in stages over a 10-year period. Water production information from each stage will be used to determine well field designs and yield projections for the following stage. An average of about 100,600 acre-feet per year is the pumped yield objective of which approximately 5,300 acre-feet will be delivered to Alamosa NWR and about 95,300 acre-feet less evaporation and seepage losses will annually be delivered to the Rio Grande.

The Closed Basin Division, as originally described in House Document 91-369 (1970) and the initial authorizing legislation (Public Law 92-514), is a water resource project that has undergone considerable alteration in project features. These changes, as presented in the project Definite Plan Report, November 1979, include: deletion of 12 miles of the Rio Grande channel rectification, deletion of the annual salvage of 15,200 acre-feet of surface water, deletion of the east side conveyance channel, deletion of the connecting channel between the conveyance channel and San Luis Lake, rerouting of the conveyance channel through Alamosa NWR, deletion of the conveyance channel collection system which would have collected surface water outflows from Mishak Lake, the proposed development of the San Luis Lake's State Wildlife Area, and the development of the Blanca WHA by the Bureau of Land Management. Additional studies have indicated that surface inflows in the wetland areas within division boundaries are being reduced due to changes in agricultural irrigation methodologies in the San Luis Valley.

As originally planned, an estimated 66,000 to 104,000 acre-feet of ground water would be pumped annually with 100,600 acre-feet per year being a reasonable project yield objective. Approximately 5,300 acre-feet per year of that pumpage would be delivered to Alamosa NWR, and 95,300 acre-feet less evaporation and seepage losses would be delivered to the Rio Grande. The original project provided for stablizing water levels in San Luis Lake at about 890 surface acres, for developing recreational facilities at San Luis Lake, and for fish and wildlife enhancement. That plan also included the 13,800 acre-feet Mishak NWR which was to be provided with 12,500 acre-feet of water annually. Total lands within the project boundaries including Mishak NWR would have been 138,500 acres.

At the time the 1980 reauthorization was accomplished, changes in the mitigation were still being studied. These additional studies have been conducted to more adequately determine the effects of the project on wetlands, vegetation, and wildlife including the necessary mitigation and/or enhancement. Results from these various studies have been utilized in the development of the revised plan for mitigation and/or enhancement of project effects. One major change is in seasonally flooded wetlands. The 1969 Fish and Wildlife Service (FWS) Coordination Act Report indicated that about 100,000 acres of seasonally flooded wetlands would be adversely affected by construction and operation of the project. Recent studies have shown that only about 43,000 acres of wetlands now exist within project boundaries and that about 8,500 acres will be affected with project development and operation.

The revised mitigation and/or enhancement plan provides for the acquisition, development, and management of the Russell Lakes WMA as a replacement for the previously authorized Mishak NWR. Since the project was first developed, surface water inflows to the Mishak NWR area have been reduced to as little as 500 acre-feet through more efficient upstream use. This is considerably less than the 12,500 acre-feet required. Deliveries of water to sustain the Mishak NWR would need to be supplied by pumping ground water. Since these pumped waters cannot be replaced and would result in a decrease in total water delivered to the Rio Grande, a viable refuge cannot be justified. The proposed Russell Lakes WMA will contain approximately 4,600 acres of land of which about 3,100 are presently under private ownership. The proposed 13,800-acre Mishak NWR would have required the acquisition of private ownerships totaling over 9,000 acres.

Alamosa NWR will receive 5,300 acre-feet of water annually and Blanca WHA will receive about 1,100 acre-feet of water per year. Of the 6,400 acre-feet 5,300 acre-feet will be diverted from the project conveyance channel and 1,100 acre-feet will be obtained through acquisition of water right purchased from willing sellers within project boundaries. A 2,040-acre tract of land known as the Emperious Estate is available at the present time for purchase from a willing seller. Sufficient flows from existing wells with adjudicated water rights occur on these lands to provide a large portion of the 1,100 acre-feet of water needed for project mitigation. Flows from these wells could be reduced without jeopardizing the total livestock grazing and wildlife resource value of these lands.

San Luis Lake will be stabilized at about 890 surface acres with a flow-through water system. The wetland and terrestrial vegetation and wildlife habitat affected by the project will be replaced. Waterfowl production losses due to wetland losses resulting from the project will not only be replaced but will be enhanced through wetland replacement by more than 10,000 ducks per year. The San Luis Lake State Management area and the recreation facilities at San Luis Lake will be developed subject to Public Law 89-72 contractual agreements. Warm and cold water fisheries at San Luis Lake and in the project conveyance channel may be established as enhancement features of the project.

The original mitigation plan which included the Mishak NWR would have a January 1981 cost of about $8,350,000. The revised mitigation plan which includes the Russell Lakes WMA instead of Mishak NWR will result in a substantial cost reduction, in excess of $1 million, to the American taxpayer. The revised mitigation plan is con-

sistent with the Administration's policy to reduce spending.

The Office of Management and Budget has no objection to the transmittal of the draft legislation.

Sincerely,

GARREY E. CARRUTHERS,
*Assistant Secretary.*

S. 2677

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, in order to provide for establishment of the Russell Lakes Waterfowl Management Area as a replacement for the authorized Mishak National Wildlife Refuge and for other purposes, Title I of Public Law 92-514 (86 Stat. 964), as amended by Public Law 96-375 (94 Stat. 1507), is further amended as follows:

(1) In section 101(a), by deleting the phrase "establishing the Mishak National Wildlife Refuge and furnishing a water supply for the operation of the Mishak National Wildlife Refuge and the Alamosa National Wildlife Refuge and for conservation and development of other fish and wildlife resources" and inserting in lieu thereof "establishing the Russell Lakes Waterfowl Management Area and furnishing a partial water supply for the operation of the Blanca Wildlife Habitat Area and Alamosa National Wildlife Refuge essentially as shown in the Fish and Wildlife Plan dated June 1981".

(2) In section 101(a), by inserting the phrase "and as modified by the plans essentially as shown in the Fish and Wildlife Plan dated June 1981" before the proviso.

(3) In section 102(b), by deleting the last five words "the construction of the project" and inserting in lieu thereof "operation of each stage of the project".

(4) By deleting section 104(b)(2) and inserting in lieu thereof:

"(2) To maintain the Alamosa National Wildlife Refuge and the Blanca Wildlife Habitat Area: *Provided,* That the amount of project salvaged water delivered from the conveyance channel to the Alamosa National Wildlife Refuge and the Blanca Wildlife Habitat Area shall not exceed five thousand three hundred acre-feet annually.".

(5) In section, 105 by deleting "project plan" and inserting in lieu thereof "Fish and Wildlife Plan dated June 1981".

(6) In section 105, by deleting the phrase "restricted to easements and rights-of-way in order to minimize the removal of land from local tax rolls." and inserting in lieu thereof "acquired by easements in order to minimize the removal of land from local tax rolls. Lands required for permanent project facilities shall be acquired by fee title.".●

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By Mr. NUNN (for himself, Mr. CHILES, and Mr. RANDOLPH):

S. 2678. A bill to amend title 18 to establish an insanity defense, to establish a verdict of not guilty only by reason of insanity and for other purposes; to the Committee on the Judiciary.

THE INSANITY DEFENSE ACT OF 1982

Mr. NUNN. Mr. President, during the last few days, John Hinckley's acquittal has rapidly focused the public eye on the glaring deficiencies in the American legal system's treatment of the insanity defense. We, in that case, have watched a long parade of complex and confusing psychiatric testimony before a lay jury. We have, in the days following the trial, heard jurors accuse our "system" of failing miserably in formulating the question of insanity versus criminal responsibility. Finally, we have been astonished to learn that the Federal system does not generally provide for the automatic institutional commitment of individuals like Hinckley who are acquitted of violent crime by reason of insanity.

I am today introducing the Insanity Defense Act of 1982 which provides a straightforward and commonsense approach to the question of insanity at the time of the offense. Essentially, the bill does three things: First, establishes uniformity in the insanity defense for all Federal criminal prosecutions; second, places the burden of proving such a defense on the defendant; and third, provides for the institutional commitment of individuals acquitted by reason of insanity. The evidence amply demonstrates that each of those revisions is long overdue in our criminal justice system.

Although insanity as a negation of criminal intent has been recognized as a defense to criminal charges since early common law, no statute uniformly defines what constitutes insanity as a defense in Federal prosecutions. As a result, the courts have taken it upon themselves to define insanity, resulting in a hodgepodge of Federal insanity defenses varying from jurisdiction to jurisdiction.

This rule, greatly expanded by United States against Brawner, was used in the Hinckley case. Such disparity in the definition of criminal conduct is confusing and unfair to both the public and criminal defendants alike.

Probably the oldest and most widely used definition of insanity stems from the old English rule in M'Naghten's case. It determines insanity by asking whether the accused was laboring under such a defect of reason or disease of the mind so as not to know the nature and quality of the act he was doing; or if he did know it, that he did not know what he was doing was wrong. Some jurisdictions have altered M'Naghten by adding the alternative test of whether the defendant was acting under an "irresistible impulse". The so-called Durham rule, originating in the District of Columbia District, is among the broadest, finding no criminal responsibility where the defendant acted as a result of mental disease or defect, regardless of his knowledge of right or wrong.

The bill I introduce today would end the current disparity in the meaning of "insanity" within the Federal criminal justice system. In all Federal criminal prosecutions, we would return to the M'Naghten definition as the standard for the insanity defense. A defendant would not be criminally responsible for his acts if as a result of mental disease or defect, he lacked the ability to understand the nature and quality of his act; or as a result of mental disease or defect, he lacked the ability to distinguish right and wrong in respect to the act.

We are all aware of the seemingly endless litany of psychiatric testimony and evidence produced in the Hinckley case. We are also aware of what must certainly have been the incredibly confusing nature of much of that testimony to the jury. One juror has since openly discussed the fact that while the Government could not prove Hinckley sane neither could the defense prove Hinckley insane. Yet, under the law, the jury was required to acquit. My bill specifically provides that the burden shall be on the defendant to prove insanity as a defense to the criminal charges. This will prevent attempts to use the insanity defense as a confusing smokescreen by which to frustrate the criminal justice system.

By providing for a special verdict of "not guilty by reason of insanity" and accompanying commitment procedures, my bill addresses what is certainly the most glaring inequity in our current treatment of the insanity defense: The absence of any Federal requirement that a defendant acquitted as insane be institutionally committed. Title 18 provides only for institutional commitment pending trial of individuals found incompetent at the time of trial or of Federal prisoners found incompetent after sentence. Due to the particular system in place within the District of Columbia, Hinckley was not set free immediately upon his acquittal. In the federal system on the whole, however, such procedures are not the rule. In several Federal jurisdictions, for example, a Federal defendant acquitted by reason of insanity remains free unless State authorities move to commit him. Amazingly, Federal law does not require what one would consider the very minimum required to insure the public's safety.

My bill would guarantee that a defendant, acquitted by reason of insanity, would be committed to an appropriate institution until such time as he is no longer a danger to the community. Certainly this is the least that we, as a responsible Congress, can do to insure the public safety. Insanity, since the days of early common law, has been a proper defense to criminal charges. The legislative proposals which I offer today do not change that tradition. Rather, they serve only to place the insanity defense in its proper perspective, with due regard given to both the integrity and credibility of our judicial system and the safety and security of the public.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

Mr. CHILES. Mr. President, I am happy to join with the distinguished Senator from Georgia in introducing this bill to establish clear guidelines for the proper use of the insanity defense in Federal criminal proceedings. The effect of these proposals will assure that defendants in the Federal courts will bear a higher degree of accountability for their criminal acts.

As we all know, earlier this week, John Hinckley was able to rely on the insanity defense to get acquitted of the attempted murder of the President, and the wounding of three other people. I believe that the public outrage which the Hinckley case has generated is well-founded. I was dismayed by the result in the Hinckley case, too. Of course, it is impossible to second guess the jury's decision, especially since we did not have the opportunity to hear all of the testimony the jury heard. Nevertheless, there were several aspects of the case which I found very troubling. First, it seemed unreasonable for the prosecution to be expected to prove, beyond a reasonable doubt, that Hinckley was sane. Hinckley was the person who was using the defense, and it would make sense for him to have to bear the burden of proving the defense. Second, the standard used in determining whether Hinckley was legally insane or not seemed too broad. As I understand it, the court applied the so-called irresistible-impulse test, which focuses on the defendant's ability to control his action. Had a stricter test been used, one which focused on whether the defendant understood in his mind that what he was doing was wrong, perhaps the case would have turned out differently. Finally, it is worth noting that, as I understand it, the District of Columbia is the only Federal jurisdiction that has a mandatory commitment requirement for someone who, like Hinckley, successfully beats a conviction by offering the insanity defense. In other Federal jurisdictions, in all likelihood, Hinckley could have simply walked out of the court room and onto the streets.

Mr. President, Congress cannot change the result of the Hinckley trial. However, it can take action to make sure that our Federal courts do not follow rules which lead to these kinds of results in the future. We can do that by changing the insanity rules for the Federal courts, so that the test at trial focuses more on whether the defendant understood what he was doing. To allow a person to avoid conviction for a violent crime simply because the Government is unable to prove, beyond a reasonable doubt, that the person was able to control actions that he knew were wrong is simply not acceptable to me.

The bill we are introducing today makes three specific reforms in the insanity defense in the Federal courts. First, the bill would mandate the use of the so-called M'Naghten rule, the traditional test and the strictest test used to determine legal insanity. The M'Naghten rule focuses on the defendant's state of mind at the time he commits the crime. It basically requires that the defendant, at the time of the crime, lacked the ability to know that his actions were wrong or to understand the nature of his action. In other words, it would be irrelevant if the defendant knew his acts were wrong, but was unable to control them. He would be guilty. Instead, the test looks to whether the defendant was suffering from some sort of delusion which prevented him from understanding that his acts were wrong in the eyes of society.

The second reform would simply specify that the defendant, at trial, would always carry the burden of proving that, at the time of the crime, he was in fact legally insane. Today once a defendant puts forward some evidence of insanity, the Government is forced to prove that the defendant is sane. This bill simply keeps the burden of proof with the defendant. This shift in the burden of proof seems necessary, Mr. President, to avoid creating the situation in which the Government must prove, beyond a reasonable doubt, that a defendant was sane. The person trying to show that he was insane should be the one who has to prove it.

The third and final reform focuses on what happens to persons who are determined to be innocent by reason of insanity. As I mentioned earlier, in most Federal jurisdictions, such persons are not required to be committed to a mental institution. This bill provides for automatic commitment of any person who is declared legally insane. That person would be required to be held in a mental institution until it could be established that he no longer was insane or dangerous to society. Otherwise, as is the case under current law, we run the risk of putting dangerous people back on the street.

To a victim of a violent crime, I am sure that it makes little difference that the person who attacked him was legally insane or was legally sane. The wounds are the same, the harm is the same, and the damage is the same. Moreover, to society, the fact that a person like John Hinckley is able to avoid justice is yet another example of the inability of our courts to carry out justice by holding persons responsible for acts that they know are crimes.

It is yet another shortcoming in our criminal justice system which needs to be reformed. Senator NUNN and I have come to the Senate floor every day for the last month to emphasize our belief that prompt action on reforms in our criminal justice system ought to be a top priority for the Senate. The Senate already has two comprehensive anticrime bills on the Senate Calendar: S. 2543, which Senator NUNN and I introduced, and S. 2572, which Senator THURMOND and Senator BIDEN introduced and we sponsored. We need to call those bills off the calendar and act on them promptly. And in doing so, we need to act on reforms to the insanity defense. There are several insanity reform proposals now before the Senate; in fact, S. 2572 contains such a proposal. By acting on those proposals, and on the one we introduce today, we can try to make sure that, in the future, the insanity defense will be properly applied. Proper application of the insanity defense means that persons who understand that they are committing crimes are held accountable for those crimes, and that persons who are determined to be legally insane are institutionalized for as long as they pose any threat to society.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2678

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That this Act may be cited as the "Insanity Defense Act of 1982".

SEC. 1. Chapter 313 of Title 18, United States Code, is amended by adding the following sections:

"SECTION 4249. INSANITY AT THE TIME OF THE OFFENSE.

"(a) INSANITY DEFENSE.—It is a defense to a criminal prosecution under any Federal statute that a defendant, as a result of mental disease or defect, lacked (1) the ability to understand the nature and quality of the act, or (2) the ability to distinguish right and wrong in respect to the act.

"(b) In any criminal prosecution, the burden of proving insanity shall rest with the defendant.

"(c) SPECIAL VERDICT.—If the issue of insanity is raised by notice as provided by rule 12.2 of the Federal Rules of Criminal Procedure on motion of the defendant or by the attorney for the government, or on the court's own motion, the jury shall be instructed to find, or, in the event of a nonjury trial, the court shall find, the defendant:

"(1) guilty;

"(2) not guilty; or

"(3) not guilty only by reason of insanity.

"SECTION 4250. DETERMINATION OF THE EXISTENCE OF INSANITY AT THE TIME OF THE OFFENSE.

"(a) Upon the filing of a notice, as provided in rule 12.2 of the Federal Rules of Criminal Procedure, the court, upon motion by the attorney for the government, may order that a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court pursuant to Section 4252 (a) and (b).

"SECTION 4251. HOSPITALIZATION OF A PERSON FOUND NOT GUILTY ONLY BY REASON OF INSANITY.

"(a) If a person is found not guilty only by reason of insanity, the court shall order a

hearing to determine whether the person is presently suffering from a mental disease or defect as a result of which his release would create a substantial danger to himself, to another person, or to the property of another person. Prior to the date of the hearing, the court may order that a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court, pursuant to the provisions of Section 4252 (a) and (b).

"(b) HEARING.—The hearing shall be conducted pursuant to the provisions of Section 4252(c).

"(c) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect as a result of which his release would create a substantial danger to himself, another person, or the property of another and that he should be committed to a mental hospital for custody, care, or treatment, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for treatment in a suitable mental hospital, or in another suitable facility designated by the court as suitable.

"(d) DISCHARGE FROM MENTAL HOSPITAL OR OTHER SUITABLE FACILITY.—When the director of the facility to which the defendant is committed pursuant to subsection (c) determines that the defendant has recovered from his mental disease or defect to such an extent that the defendant is no longer in need of custody, care or treatment, the director shall promptly file a certificate to that effect with the clerk of the court which ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the government. If, after a hearing, the court determines by a preponderance of the evidence that the defendant has recovered from his mental disease or defect and no longer poses a danger to himself, another person or the property of another, the defendant shall be ordered discharged from such facility.

"SECTION 4252. GENERAL PROVISIONS.

"(a) PSYCHIATRIC EXAMINATIONS.—A psychiatric examination ordered pursuant to this chapter shall be conducted by at least two licensed or certified psychiatrists, clinical psychologists or medical doctors, or, if the court finds it appropriate, by additional examiners. Such examiners shall be:

"(1) designated by the court if the examination is ordered under section 4244; or

"(2) designated by the court, and shall include one examiner selected by the defendant, if the examination is ordered under section 4251.

"For the purposes of such examination, the court may commit the person for a reasonable period not to exceed sixty days, in order to conduct such examination, to the custody of the Attorney General for placement in a mental hospital or other suitable facility. Unless impracticable, the examination shall be conducted in a suitable facility closest to the court. The director of the facility may apply for a reasonable extension not exceeding thirty days, upon a showing of good cause that additional time is needed to observe and evaluate the defendant.

"(b) PSYCHIATRIC REPORTS.—A psychiatric report ordered pursuant to this title shall be prepared by the examiners designated, shall be filed with the court with copies provided to the counsel for the defendant and to the attorney for the government, and shall include:

"(1) the person's history and present symptoms;

"(2) a description of the psychological, medical or other tests employed and their results;

"(3) the examiners' findings; and

"(4) the examiners' opinions as to diagnosis, prognosis, and—

"(A) if the examination was ordered under section 4250, whether the person was insane at the time of the offense charged;

"(B) if the examination was ordered under section 4251(a), whether the person is currently suffering from a mental disease or defect which would create a danger to the person, to another person, or to the property of another; or

"(C) if the examination was ordered under section 4244, whether the person is currently suffering from mental imcompetency such that he is unable to understand the proceedings against him or properly assist in his own defense.

"(c) HEARING.—At a hearing ordered pursuant to this chapter the person whose mental condition is the subject of the hearing shall be represented by counsel and, if he is financially unable to obtain adequate representation, counsel shall be appointed for him. The person shall be afforded the opportunity to testify, to present evidence, to subpoena witnesses and to confront and cross-examine witnesses who appear at the hearing.

"(d) ADMISSIBILITY OF A DEFENDANT'S STATEMENT AT TRIAL.—A statement made by a defendant during the course of an examination conducted pursuant to this chapter is not admissible as evidence against him in any criminal proceeding, but is admissible on the issue of whether or not he suffers from a mental disease or defect.

"(e) HABEAS CORPUS.—Nothing contained in this chapter precludes a person committed under this chapter from establishing by writ of habeas corpus the illegality of his detention.

"(f) AUTHORITY OF THE ATTORNEY GENERAL.—The Attorney General may contract with a State, a locality or a private agency for the confinement, hospitalization, care or treatment of, or the provision of services to, a person committed to his custody under this chapter.".

SEC. 2. Section 4244 of Title 18, United States Code, is amended by deleting all after "his mental condition," and adding the following: "by at least two licensed or certified psychiatrists, clinical psychologists or medical doctors, who shall report to the court. For the purpose of the examination the court may order the accused committed pursuant to Section 4251 of this chapter. If the report of the examiners indicates a present insanity or such mental incompetency in the accused, the court shall hold a hearing, upon due notice, pursuant to Section 4252(c). A finding by the court that the accused is mentally competent to stand trial shall in no way prejudice the accused in a plea of insanity as a defense to the crime charged, and such finding shall not be introduced in evidence or that issue nor otherwise be brought to the notice of the jury.".

SEC. 3. Chapter 313 of Title 18, United States Code, is amended by redesignating sections 4251 through 4255 as sections 4261 through 4265, respectively.

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By Mr. EAST:

S.J. Res. 205. Joint resolution to designate September 1982 as "National Sewing Month"; to the Committee on the Judiciary.

NATIONAL SEWNG MONTH

● Mr. EAST. Mr. President, the State of North Carolina is one of the Nation's leaders in textile manufacturing. Many of our citizens work in textile mills, fabric centers, and sewing shops, or otherwise participate in the day-to-day buying and selling of sewing items.

Today, Mr. President, I am proud to introduce a joint resolution that will designate this coming September as "National Sewing Month." I am pleased to join with my colleague on the House side, Congressman BILL BONER of Tennessee, who has introduced a similar resolution in the House of Representatives, House Joint Resolution 492.

This September, sewing enthusiasts from across the country will celebrate National Sewing Month, sponsored by the American Home Sewing Association. The American Home Sewing Association represents over 500 member companies: manufacturers, retailers, wholesalers, and service businesses from the equipment, fiber, pattern, fabric, textile and notion sectors.

I understand that National Sewing Month is an industrywide promotion effort designed to increase home sewing interest, consumer sewing education, and family sewing participation by stimulating consumers across the country with a universal sewing theme. The unprecedented industry-wide program is the first step toward a long-range goal of revitalizing the sewing spirit in America. In addition, various national organizations have been sent ideas for special community home sewing programs to commence this September and to continue throughout the year. Interested parties, which include home economics teachers, 4-H clubs, Girl Scouts, American sewing guilds, Future Homemakers of America, and others, will join in this sewing awareness effort.

Mr. President, the industry promotion effort devoted to National Sewing Month is not confined to the groups and associations I have mentioned in my remarks. Well over 90 million Americans sew at home: 50 million citizens have the basic skills to do small item or mend-type sewing at home and 40 million citizens sew at least part of their wardrobe—with many of these making home furnishing items as well. Home sewers also make sport accessories, arts/crafts handiwork and energy saving items.

I believe that the sewing industry has contributed significantly to the economic life of the Nation. This sector of the economy generates over $3.5 billion in sales annually and involves millions of dollars of capital invested in plants, factories, machinery, and equipment. The industry directly employs thousands of people in the manufacturing, wholesale, retail, and service sectors, not to mention the

thousands involved in sewing as teachers, mechanics, truck drivers, contractors, store owners, and others. Throughout the Nation, millions of Americans of all ages and all walks of life visit local fabric and sewing shops to pursue their interest in sewing.

I have always been a strong supporter of the family and believe that home sewing enourages close-knit family units. For generations, the fundamentals of sewing have been learned in the context of the family and in the home economics classes of local schools. For most, home sewing remains home and family oriented. But for others, the skills thus acquired have been carried over into the world of work. Unnumbered careers in fashion, retail merchandising, interior design, pattern making and textile design—to say nothing of the tens of thousands who have found employment in the garment industry—have been launched in a seventh or eighth grade home economics sewing class where the challenge, excitements, and eventually the pride of making one's own clothes led to a lifetime occupation.

Mr. President, at this time I wish to recognize the contribution made by the American Home Sewing Association to the sewing industry, and to congratulate the officers of the association on all they have done for the industry, the American consumer and our economy. The officers include Leonard Ennis, executive vice president, Harold Cooper, chairman of the board, Leona Rocha, president, Sal Alcina, president-elect, David Colin, vice president finance, Doris Katz, vice president membership, Earle Angstadt, Jr., vice president education affairs, Thomas Sullivan, Jr., vice president government relations, Patrick McGinty, vice president industry expansion, David Schoenfarber, vice president member services and Alan Sorrell, vice president shows and conventions.

I hope that the House and my colleagues in the Senate will consider and pass a National Sewing Month resolution and encourage President Ronald Reagan to join with the industry and the Congress in designating September 1982 as National Sewing Month.●

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By Mr. BENTSEN:

S.J. Res. 206. A joint resolution entitled "The Flat Rate Income Tax Resolution"; to the Committee on Finance.

FLAT RATE TAX SYSTEM

● Mr. BENTSEN. The resolution I am introducing now Mr. President, proposes that the Senate, and hopefully the full Congress, take a step today toward the development of a fair, efficient, and simple Federal income tax system—perhaps one largely constructed around a flat rate structure.

I do not think I need to dwell at length on the characteristics of our present income tax system. We have loaded that system down by asking it to do too many things at once. We depend on it to raise Government revenues. We depend on it to carry the brunt of a discretionary and active fiscal policy. And, we depend on it to achieve a bewildering variety of social objectives, as well, ranging from good health care to economically healthy public charities. We do not need to look very far to realize that our tax system cannot achieve all those objectives simultaneously—there are too many strings pulling in opposite directions.

In fact, it is doubtful whether the mind of man is capable of conjuring up any tax system able to satisfy the contradictory and conflicting objectives we now expect to be attained by the Federal income tax.

Because of these conflicting objectives, no one is really satisfied with the end results of our income tax system, either. It is perhaps held in the lowest esteem of any Federal activity. It is not fair; it is not efficient; it does not achieve many of its intended social objectives; it does not treat all income in a like manner; it discourages saving and investment through bracket creep; it encourages the wasteful use of scarce capital in dubious tax shelters; and it is complex—so complex that a privileged class of lawyers and accountants, not unlike ancient Druid religious men, have emerged in Washington, dedicated solely to the study, nurturing, and worship of subtitle A of chapter 1 of the Internal Revenue Code of 1954.

The complexity of the present tax system is almost legendary. I suspect, in fact, that a scarce handful—if that—of Senators and Congressmen now complete their own income tax returns.

It is easy to criticize the hodgepodge which now passes for our tax system. The far harder chore is to come up with a fair, efficient, and workable alternative to the present system—especially when we begin with 535 definitions of the terms "fair and efficient."

FLAT RATE TAX SYSTEM

Yet, pressure is growing both here in Congress and across our country for reform of the Federal income tax system. It is welcomed pressure as far as I am concerned, and long overdue as well. A number of commentators and prominent economists from one end of the political spectrum to the other—from Hoover Institute experts and William F. Buckley to Joseph Pechman of Brookings—have called for a simpler and fairer income tax system, one constructed around the concept of a flat tax rate for most individuals.

A number of Members of this body to their credit—and here I refer especially to Senators DECONCINI, GRASSLEY, QUAYLE, SYMMS, HELMS, BRADLEY, and GOLDWATER—have proposed or supported legislation sympathetic to a simple and fair flat rate tax system.

These calls cannot be ignored by individual Members or in particular by members of the Finance Committee who must constantly be alert to options for improving our income tax system. But just as we should not ignore these calls, we cannot expect to eliminate inequalities and completely overhaul our income tax system overnight. It took 35 Congresses almost 70 years to pile section upon section; to reconstruct a fair and simple system cannot be done overnight. We face an enormous job in creating anew a fair, simple, and efficient tax system—and one the Congress is not sufficiently armed now to successfully complete in a timely fashion. We must arm ourselves with facts before attempting to weigh the advantages of moving to a new system of income taxation—a step I am certainly inclined to support now. For example, no one here, at the IRS, or at the Treasury knows what the true effective tax rate is for different income classes because data on tax-exempt income is not now available. The pattern of Government transfer payments to individuals, for another example, is simply not known either.

Yet, that type of date—very basic information on who earns what—is critical to the design and implementation of any new tax system.

TREASURY ANALYSIS

To fill that gap, my joint resolution being introduced now instructs the Secretary of the Treasury to conduct a comprehensive review of alternatives to the current income tax system, and to propose at least three new systems for Congress to review—simple and fair tax systems featuring a flat tax rate structure.

What I want the Treasury to do is conduct the type of thorough, comprehensive analysis it did back in 1975 under Treasury Secretary William Simon. The fruit of that effort—an effort involving some 30 man-years—was the publication entitled, "Blueprints for Basic Tax Reform."

Now, I am not proposing that 30 man-years be devoted to the flat rate tax system analysis called for in my resolution, but it is certainly reasonable for, perhaps, a third of that effort to be devoted to this exercise—a not unreasonable demand in light of the great importance I believe should be attached to this effort.

Let me add that I do not want Treasury to dawdle in preparing this report; my resolution gives them a short fuse—just 6 months—to report back to Congress.

STUDY POINTS OF REFERENCE

Among the many factors I want explored in this report by Treasury are:

The impact on savings and investment of lower marginal tax rates;

Realistic estimates of how much income generated in the underground economy could be picked up with a flat rate tax system;

Alternative techniques outside the tax system for encouraging the many desirable national goals promoted in the present tax system;

Whether the experience in Hong Kong and elsewhere with relatively flat income tax rates holds useful lessons for this country;

Whether farmers, corporations, partnerships, and trusts should be treated differently than individuals for tax purposes;

How dividend and capital gains income, or income earned abroad, might best be treated.

There are many other facets of this analysis, as well. For that reason, my resolution instructs the Treasury Secretary to consult closely and frequently with the Finance and Ways and Means Committees during the course of the analysis.

Let me make one other point, Mr. President. According to news reports quoting the Director of OMB, the President is interested in the flat tax rate concept and may even propose some movement in that direction next January with his fiscal year 1984 budget. That news attaches, I believe, a special urgency to the analysis which I propose now be conducted by the Treasury Department—an analysis which will be a great value to Congress as well as the administration—and one which should notably aid our efforts here to intelligently evaluate any administration's proposal in an informed and timely fashion.

I encourage Members of the Senate to join in support of my joint resolution and urge its prompt attention by the Finance Committee.

Mr. President, I ask unanimous consent for my Senate Joint Resolution entitled, "The Flat Rate Income Tax Resolution of 1982" to be printed at this point in my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 206

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

Whereas, the Federal income tax has evolved from a simple system designed to raise taxes efficiently and fairly to one which is excessively cumbersome;

Whereas, the Federal income tax system imposes higher taxes on individuals in an unintended fashion as a result of inflation, to the detriment of savings, investment, and a national commitment to raising living standards through increased productivity;

Whereas, a great number of exceptions designed to achieve national social or economic goals have become part of the Federal tax system since 1913, and require review to ascertain whether those goals can be met more efficently without reliance on the tax system;

Whereas, a substantial underground economy has developed in part due to the complexity and high marginal rates of the Federal individual income tax system; and

Whereas, a thorough and comprehensive review of the Federal income tax system is needed to assist Congress in designing a fair, efficient, and equitable income tax system. Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury shall review and propose for consideration by the Congress at least three alternative Federal income tax systems, which shall be simple in design, comprehensive in coverage, and contain flat rate tax structures, such proposals to be submitted no later than six months from the date of enactment of this Resolution. The Secretary shall consult closely and frequently with the Senate Finance Committee and the Ways and Means Committee of the House of Representatives in the course of preparing the proposed tax systems.●

## ADDITIONAL COSPONSORS

S. 1018

At the request of Mr. CHAFEE, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 1018, a bill to protect and conserve fish and wildlife resources, and for other purposes.

S. 1444

At the request of Mr. THURMOND, the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 1444, a bill to authorize the Administrator of General Services to donate to State and local governments certain Federal personal property loaned to them for civil defense use, and for other purposes.

S. 1698

At the request of Mr. DENTON, the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 1698, a bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of U.S. Armed Forces personnel.

S. 2000

At the request of Mr. DOLE, the Senator from Louisiana (Mr. LONG), the Senator from Illinois (Mr. PERCY), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from South Dakota (Mr. PRESSLER) were added as cosponsors of S. 2000, a bill to amend title 11, United States Code, to establish an improved basis for providing relief under chapter 7, and for other purposes.

S. 2174

At the request of Mr. THURMOND, the Senator from South Dakota (Mr. ABDNOR), the Senator from Oklahoma (Mr. BOREN), and the Senator from Florida (Mr. CHILES) were added as cosponsors of S. 2174, a bill to recognize the organization known as American Ex-Prisoners of War.

S. 2281

At the request of Mr. DANFORTH, the Senator from Ohio (Mr. GLENN) and the Senator from Colorado (Mr. HART), were added as cosponsors of S. 2281, a bill to amend the Internal Revenue Code of 1954 to encourage contributions of computers and other sophisticated technological equipment to elementary and secondary schools.

S. 2397

At the request of Mr. ROTH, the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of S. 2397, a bill to require (1) the enactment of special legislation to continue the expenditure or obligation of funds on any major civil acquisition initiated after January 1, 1982, whenever the cost of such acquisition has increased or, on the basis of estimates, will increase over the initial estimate when the project was justified to the Congress by 25 per centum or more, and (2) reporting of status information on all major civil acquisitions.

S. 2413

At the request of Mr. LONG, the Senator from Rhode Island (Mr. CHAFEE), the Senator from Vermont (Mr. STAFFORD), and the Senator from Florida (Mrs. HAWKINS) were added as cosponsors of S. 2413, a bill to delete the provisions of the Internal Revenue Code of 1954 which treat Members of Congress separately with respect to living expense deductions.

S. 2425

At the request of Mr. ROTH, the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2425, a bill to amend the Internal Revenue Code of 1954 to clarify certain requirements which apply to mortgage subsidy bonds, to make tax-exempt bonds available for certain residential rental property, and for other purposes.

S. 2436

At the request of Mr. WARNER, the Senator from Maryland (Mr. MATHIAS), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Indiana (Mr. LUGAR), the Senator from South Carolina (Mr. THURMOND), the Senator from Kansas (Mr. DOLE), the Senator from Florida (Mr. CHILES), the Senator from California (Mr. CRANSTON), the Senator from New York (Mr. MOYNIHAN), the Senator from Ohio (Mr. METZENBAUM), the Senator from Montana (Mr. BAUCUS), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Oregon (Mr. HATFIELD) were added as cosponsors of S. 2436, a bill to designate the Mary McLeod Bethune "Council House" in Washington, D.C., as a national historic site, and for other purposes.

S. 2544

At the request of Mr. COHEN, the Senator from Hawaii (Mr. INOUYE), the Senator from Vermont (Mr. STAFFORD), and the Senator from Mississippi (Mr. COCHRAN) were added as co-

sponsors of S. 2544, a bill to provide access to trade remedies to small business, and for other purposes.

S. 2565

At the request of Mr. NUNN, the Senator from Nebraska (Mr. ZORINSKY), the Senator from Arizona (Mr. DECONCINI), the Senator from Oklahoma (Mr. BOREN), the Senator from Texas (Mr. BENTSEN), the Senator from Louisiana (Mr. LONG), and the Senator from Mississippi (Mr. STENNIS) were added as cosponsors of S. 2565, a bill to amend the Internal Revenue Code of 1954 to provide for the disclosure of returns and return information for use in criminal investigations, and for other purposes.

S. 2572

At the request of Mr. THURMOND, the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 2572, a bill to strengthen law enforcement in the areas of violent crime and drug trafficking, and for other purposes.

S. 2610

At the request of Mr. CHAFEE, the Senator from Vermont (Mr. LEAHY), the Senator from Montana (Mr. MELCHER), the Senator from Wisconsin (Mr. KASTEN), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 2610, a bill to delay Treasury regulations on the debt-equity issue.

S. 2622

At the request of Mr. DANFORTH, the Senator from Maine (Mr. MITCHELL), the Senator from Idaho (Mr. SYMMS), and the Senator from New York (Mr. MOYNIHAN) were added as cosponsors of S. 2622, a bill relating to the tax treatment of long-term contracts with respect to taxable years beginning after December 31, 1982.

S. 2674

At the request of Mr. COHEN, the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of S. 2674, a bill to amend title II of the Social Security Act to require a finding of medical improvement when disability benefits are terminated, to provide for a review and right to personal appearance prior to termination of disability benefits, to provide for uniform standards in determining disability, to provide continued payment of disability benefits during the appeals process, and for other purposes.

SENATE JOINT RESOLUTION 183

At the request of Mr. SPECTER, the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of Senate Joint Resolution 183, a joint resolution to authorize and request the President to issue a proclamation designating October 19 through October 25, 1982, as "Lupus Awareness Week."

SENATE JOINT RESOLUTION 190

At the request of Mr. BURDICK, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of Senate Joint Resolution 190, a joint resolution to authorize and request the President to designate "National Family Week."

## SENATE CONCURRENT RESOLUTION 109—CONCURRENT RESOLUTION RELATING TO THE GOVERNMENT PRINTING OFFICE

Mr. ARMSTRONG (for himself, Mrs. HAWKINS, Mr. THURMOND, Mr. MATTINGLY, Mr. HELMS, Mr. SYMMS, and Mr. KASTEN) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs:

S. CON. RES. 109

Whereas the Government Printing Office currently employs more than 6,200 persons, making it the largest legislative branch agency, and the Congress has appropriated over $84,000,000 to pay for Congressional printing and binding in fiscal year 1982;

Whereas the General Accounting Office issued reports in 1976 and 1982 indicating that the wages of Government Printing Office craft and industrial workers substantially exceeded, by as much as 28.8%, the wages of other workers doing similar jobs in other agencies of the Federal Government;

Whereas annual personnel costs exceed $160,000,000, and comprise approximately 80% of in-house printing costs at the Government Printing Office, while a 1981 Printing Industries of America ratio study indicates that personnel costs in private sector printing plants normally comprise 40-50% of in-house printing costs;

Whereas the Public Printer of the United States, Danford L. Sawyer, Jr., indicates that random samples show that cost of printing done in the Government Printing Office exceeds, by an average of 100%, the cost of procuring those same jobs from the low-bidder in the private sector, primarily because of the high wage costs at the Government Printing Office;

Whereas the Public Printer has instituted a hiring freeze, eliminated unnecessary overtime, requested "early out" retirement authority from the Office of Personnel Management (annual savings of approximately $19,000,000), proposed bringing the wages of the Government Printing Office craft and industrial workers into parity with the rest of the Federal Government (annual savings of approximately $18,000,000), and rescinded a 16% printing rate increase for fiscal year 1982 (annual savings of approximately $10,700,000); and

Whereas the Congress supports these efforts to lower the cost to the taxpayer of Government printing, and recognizes that legislation is necessary to make the Government Printing Office more cost-effective and efficient: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of the Congress that legislation should be proposed and enacted which achieves the following goals:

(1) The establishment of parity between the wages, salaries, and compensation of all Government Printing Office workers with the wages, salaries, and compensation of other Federal employees performing the same or similar tasks;

(2) The fixing of wages of all Government Printing Office employees in accordance with the prevailing wage rate system applicable to Federal employees in the Executive Branch; and,

(3) A thorough clarification of the relationship between the Joint Committee on Printing and the Government Printing Office, strengthening the Public Printer's ability "to take charge and manage" without in any way infringing on the Joint Committee on Printing's oversight responsibilities.

## SENATE CONCURRENT RESOLUTION 110—CONCURRENT RESOLUTION RELATING TO DEPARTURE OF CERTAIN ALIENS

Mr. TSONGAS (for himself, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. MOYNIHAN, Mr. D'AMATO, Mr. LEVIN, Mr. DODD, Mr. SARBANES, Mr. INOUYE, and Mr. CRANSTON) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 110

Whereas the United States has been a source of refuge for individuals fleeing political persecution, communism, and government terror and abuse;

Whereas since the 1974 overthrow of the Ethiopian Government, its military regime has become closely aligned with the Soviet Union and has engaged in gross violations of the human rights of its citizens through mass arrests, summary executions, indefinite detention, torture, disappearances, and absolute government control over speech, religion, assembly, media, and trade unions;

Whereas as a consequence of this the United States extended voluntary departure status to Ethiopians living in the United States so that they would not be required to return home to face possible interrogation, imprisonment, torture, or execution;

Whereas it is estimated that at least 15,000 Ethiopians are presently in the United States in such status;

Whereas in August 1981, the Department of State abruptly recommended termination of this extended voluntary departure program without public discussion or comment;

Whereas those Ethiopians who have lived in the United States for several years fear return to their country where they may well encounter persecution because of previous and outspoken opposition to their government's ill treatment of their countrymen and because of their residence in the United States; and

Whereas the forced return of Ethiopians would run counter to our stated national concern and commitment for other groups and individuals who have fled communism and persecution: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of Congress that—

(1) Ethiopians who have resided in the United States for a substantial period of time should not be forced to return to Ethiopia to face an uncertain future because of their opposition to political persecution and oppression,

(2) prompt resolution of this issue is important to allay the legitimate fears of those Ethiopians who might be subjected to persecution by their government if they are forced to return, and

(3) the Secretary of State should recommend to the Attorney General that extended voluntary departure status continue

to be granted to all Ethiopian nationals who have continuously resided in the United States since before January 1, 1980.

● Mr. TSONGAS. Mr. President, I am pleased today to submit a concurrent resolution concerning the plight of Ethiopian nationals living in this country, and I am pleased to name as original cosponsors Senators KASSEBAUM, KENNEDY, MOYNIHAN, D'AMATO, LEVIN, SARBANES, INOUYE, and CRANSTON.

Thousands of Ethiopians residing today in the United States on extended voluntary departure status face deportation. In August 1981, the State Department ruled that conditions in Ethiopia had stabilized sufficiently to discontinue protection of Ethiopian nationals seeking asylum in the United States. The State Department has recently begun to reconsider this ruling. Significant evidence from reputable international agencies and refugees fleeing Ethiopia has placed previous characterizations of Ethiopian stability in a different light.

The pattern of violence wrought by the current Ethiopian regime is well-documented. From 1974 to 1978, through a program known as the Red Terror, the Dergue executed more than 30,000 Ethiopians for political reasons, imprisoned tens of thousands and, according to U.N. Ambassador Jeane Kirkpatrick, murdered some 5,000 grade school, high school, and university students.

Since the days of the Red Terror, Ethiopia has substantially improved its human rights record, and since 1978 the means of the Dergue's control have altered. The regime has moderated its ideological commitment to violent revolutionary change. Now entrenched in urban centers, the Dergue has transferred its political, ethnic, and religious persecution to rural areas. The repression, while more subtle than the gunfire in the streets during the Red Terror, has been harsh nonetheless.

An August 1981 report by the Anti-Slavery Society of London concluded that 45,000 persons were recruited to work in forced labor camps in rural areas. According to official Ethiopian reports, 1,626 persons died in these camps. Outside estimates put the number of deaths much higher. Persecution of Falasha Jews, Protestants, and ethnic Oromo and Anuak have continued and, in some areas, intensified during the last 4 years. Clergymen have been arrested and imprisoned. A document recently smuggled into the United States by the archbishop of the Ethiopian Orthodox Church details the Dergue's systematic effort to eliminate the antirevolutionary elements of church activities. In another recent development, the Ethiopian Government is reported to have sprayed flammable chemicals in an Oromo-populated area killing 2,000 and uprooting many more.

Today, uncertainty and fear pervade the Ethiopian community. Most Ethiopians facing possible deportation believe they will face some sort of persecution upon return to their country. While Ethiopians on voluntary departure status are entitled to apply for political asylum, in 1981, only 13 percent of the applicants were accepted. Many refuse to apply for fear that their relatives in Ethiopia may suffer as a result. Others lack the documents to prove their case because of the absence of any real communications between the United States and Ethiopia.

We cannot in good conscience place the burden of proof on those risking execution or imprisonment. The human costs of miscalculation require an immediate extension of voluntary departure status until Ethiopian nationals can safely return home.

I am encouraged by the State Department's recent reevaluation of the status of Ethiopian nationals residing in the United States. We must continue, however, to respond carefully and creatively to the legitimate fears of these Ethiopians. To do otherwise would make a mockery of our long-standing commitment to human rights.

As a former Peace Corps volunteer in Ethiopia from 1962-64, I personally experienced the benefit of good relations between Ethiopia and the United States, and I am especially sensitive to the plight of Ethiopians in this country. I look forward to further improvement of the conditions in Ethiopia allowing for an atmosphere which will welcome the return of all Ethiopians.

Mr. President, I ask unanimous consent that two articles from the New York Times, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HYPOCRISY WINS AGAIN

(By Anthony Lewis)

BOSTON, January 3.—Last Oct. 2 Jeane Kirkpatrick, United States Ambassador to the United Nations, spoke in the U.N. General Assembly about what she called the "savagery" of the Marxist regime in Ethiopia. In graphic terms she denounced assaults on human rights that have occurred since Col. Mengistu Haile Mariam took over in the revolution of 1974.

"It is estimated that some 30,000 persons in Ethiopia were summarily executed for political reasons between 1974 and 1978," Mrs. Kirkpatrick said, crediting Amnesty International as the source of the figure.

"Twelve-year-old children were among those immersed in hot oil, sexually tortured or flung out of windows and left to die in the street."

The outrages were continuing, Ambassador Kirkpatrick charged.

"There are at least 300 to 400 arrests every week in Addis Ababa alone," she said. "Many of those arrested simply disappear and are presumed excuted. . . ."

Powerful words. But at about the same time Mrs. Kirkpatrick spoke them, Reagan Administration officials were preparing action to send the 20,000 or 30,000 Ethiopian refugees in this country back to Ethiopia

The action was taken by the Justice Department's Immigration and Naturalization Service. In the Boston area, a letter signed by the District Director, Paul E. McKinnon, went individually to Ethiopian refugees on Oct. 30. I have a copy and it says:

"Dear ———:

"This is to inform you that because of the stabilization of conditions in Ethiopia, your voluntary departure status in the United States is being revoked.

"You are being granted until Nov. 30, 1981, to depart the United States voluntarily. You should notify this office on or before Nov. 19, 1981, of the travel arrangements you have made. If you fail to depart as directed above, consideration will be given to the institution of deportation proceedings."

According to one arm of the Reagan Administration, then, conditions in Ethiopia are "savage." According to another, they are "stabilized"—so amiable, in fact, that we give refugees from the Mengistu regime a month to go voluntarily or face deportation to Ethiopa.

The letter added that a refugee could seek relief under a provision of law helping aliens who would face death or imprisonment at home for political reasons. But the legal burden of proof is heavy in such cases, and authorities have indicated that few of the Ethiopian refugees would be able to meet it.

It is always hard for an individual, except a politically prominent one, to prove that he will be tortured or killed or persecuted by a tyrannical regime. But there is every reason in common sense for the Ethiopian refugees here to expect trouble if they return home now. They are Westernized, highly educated, many of them children of officials in the Haile Selassie Government overthrown by Col. Mengistu.

There is a particular political callousness in the move against these refugees. In the Haile Selassie days the United States regarded Ethiopia as one of its best friends in Africa. Since the revolution the U.S. has stopped aid and shown sympathy for Ethiopia's traditional enemy, Somalia, even when Somalia tried to seize Ethiopian territory by force.

Some think American antagonism to the Mengistu regime has made matters worse. U.S. refusal to deliver arms that had been paid for when Somalia attacked certainly encouraged Ethiopia to turn to the Soviet Union and to invite Cuban troops in. But whatever the wisdom of our political attitude toward Col. Mengistu, it is utterly inconsistent with the decision to expel the Ethiopian refugees.

The episode can be seen as one more example of lack of coordination in the Reagan Administration's foreign policy, this time one that not only embarrasses us but has immediate human consequences. But it signifies something more, I think.

This is an Administration that bristles with talk about the cruelties of Communism. When it comes to invective about the Soviet Union and its friends, few can beat Jeane Kirkpatrick or Alexander Haig, or for that matter Ronald Reagan. But the same Administration has shown itself in many ways insensitive to human suffering.

Again and again the Reagan people have tried to undo American efforts to alleviate the cruelties of right-wing tyrannies. It fiercely resisted Congressional moves to

continue human-rights conditions on aid to such murderous Governments as those of Guatemala and Argentina. It has said nothing audible about the Turkish military Government's demand for the death penalty in a pending prosecution of 52 trade union leaders.

But the two-faced treatment of Ethiopia and Ethiopian refugees is an especially glaring case. It adds a cynical note to the message broadcast to the world by President Reagan on New Year's Day: "Our hearts go out to those who suffer oppression."

[From the New York Times, Apr. 20, 1982]

DON'T DEPORT ETHIOPIANS

(By Jason Clay)

CAMBRIDGE, MASS.—The Immigration and Naturalization Service last fall began to notify thousands of Ethiopians on voluntary-departure status that unless they left the country before Nov. 30, deportation proceedings would begin. The change in policy, the Service said, resulted from "stabilization of conditions" in Ethiopia. That assessment, the State Department's, is not shared by the refugees, who claim they risk persecution because of political and religious beliefs and ethnic origins.

So far, no Ethiopians have been deported. They have been organizing to resist the order. According to the Ethiopian Committee on Immigration, a private organization, they can seek alternative status through asylum, marriage, enrollment as students, or claims of extreme hardship.

On Feb. 16, two Ethiopians trying to escape forced deportation from neighboring Djibouti, to the east, jumped from a moving train to their deaths. They were among 500 refugees on the train. For these refugees, risking death was preferable to conditions they faced in Ethiopia.

The United States acknowledges that 30,000 people were executed in Ethiopia for political reasons between 1974 and 1978. If "stabilization" implies an end to political killings since then, no evidence supports this claim. People suspected of association with particular political parties were jailed, tortured, and, in many cases, executed by the Amharas, one of the many distinct ethnic groups, who have emerged as the politically dominant minority and who control the junta. Violence did not end in 1979; it was merely redirected toward ethnic groups in rural and border zones—areas economically and strategically important to the junta.

The Anuak, a small group that occupied fertile lands in western Ethiopia along the border with the Sudan, were decimated while being forcibly relocated. The Government then successfully applied to the European Economic Commission for funds to colonize these lands, now termed "uninhabited."

Oromo—more than half of Ethiopia's population—have also been removed from some of their lands to make way for settlers from Amhara provinces. This has resulted in charges of chemical warfare by refugees from recently cleared valleys in central Ethiopia. Reuters, Vart Land (a Scandinavian missionary magazine), and Oromo refugees have all reported the use of chemicals in raids against the Oromo, in one case killing 2,000, and displacing 20,000 more in March 1981.

State Department officials say they cannot vefify reports of chemical warfare although an Ethiopian Air Force defector, now in America, confirms that chemicals have been used. Refugees can provide ample evidence of gross violations of human rights against the Oromo, Anuak, Falasha (Ethiopia's black Jews), Eritreans, and Tigrians—ethnic groups who together total 80 percent of Ethiopia's population.

Refugees in the United States and in counties neighboring Ethiopia claim that they will be imprisoned and forcibly "re-educated" if they return, even though Ethiopia has promised them money, employment, and amnesty. According to refugees, after three to six months in prison-like camps, many are placed in forced labor programs.

Last August, the Anti-Slavery Society of London reported that many returned refugees were forced to work in agriculture. Of 45,000 people "recruited" for one sesame harvest, Ethiopian Government records show that 1,628 died; witnesses put the figure at 4,000 to 6,000. At the time of the harvest, Sudanese officials reported an influx of 15,000 refugees from these agricultural camps. Many previously had returned voluntarily to Ethiopia from the Sudan.

In February, military and security police in Djibouti began to round up thousands of refugees in the capital; since then 681 were deported to Ethiopia. At least 75 had Djibouti refugee-identification numbers and were recognized by the United Nations High Commissioner for Refugees, and six had been accepted for resettlement in the United States. Deportation of refugees violates the immunity afforded by registration. American officials acknowledged this forced deportation when the six were reported missing from United States language and cultural-orientation classes in Djibouti.

Shortly after this deportation, according to word-of-mouth reports from Ethiopia, hundreds of refugees were imprisoned in Dire Dawa, the largest city near Djibouti. They have since disappeared.

Nevertheless, the State Department argues that Ethiopian refugees on voluntary-departure status should not have this status renewed. In light of the junta's record, before deporting even one Ethiopian, the Immigration and Naturalization Service must ask what has become of those who have returned voluntarily or been forcibly repatriated. Anything short of an intensive review will leave the United States open to accusations that its immigration policy is little more than a set of capricious criteria tinged with racism.●

## SENATE CONCURRENT RESOLUTION 111—CONCURRENT RESOLUTION RELATING TO THE NATIONAL ENDOWMENT FOR SOIL AND WATER CONSERVATION

Mr. JEPSEN submitted the following concurrent resolution which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. CON. RES. 111

Whereas, there is a clear and present danger threatening both our water supplies and our food and fiber production base;

Whereas, that danger is being created by massive soil erosion and related problems;

Whereas, soil and water conservation is best carried out as a partnership between the private and public sectors;

Whereas, a National Endowment for Soil and Water Conservation would help speed voluntary conservation action on the land and would effectively complement present programs as well as newer soil and water conservation techniques;

Whereas, the Endowment will complement—not duplicate—existing public and private soil and water conservation program, policies, and activities;

Whereas, the Endowment could coordinate its programs with existing governmental and private efforts; and,

Whereas, Endowment funds could be used in efforts including cost-sharing payments to landowners who carry out needed conservation practices, loans and grants for installing and maintaining conservation measures, special studies and educational workshops. Now therefore be it

*Resolved*, That it is the sense of the Congress that the National Endowment for Soil and Water Conservation shall be and is hereby endorsed by the United States Congress.

Mr. JEPSEN. Mr. President, new approaches need to be devised to finance conservation that will avoid increasing the tax burden on people. The National Endowment for Soil and Water Conservation is such an innovation. It can provide a nucleus for the private sector to make a contribution toward financing soil and water conservation. I believe the endowment concept is an idea whose time has come. For this reason, I am submitting a sense of Congress resolution calling attention to the efforts and the goals of this privately funded, nonpolitical, nonprofit organization.

## SENATE RESOLUTION 419—RESOLUTION AUTHORIZING THE PRINTING OF A CERTAIN REPORT

Mr. NUNN submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 419

*Resolved*, That there shall be reprinted for the use of the Committee on Armed Services two thousand copies of its committee print, entitled "NATO: Can the Alliance Be Saved?", a report of Senator Sam Nunn to the Committee on Armed Services, May 13, 1982.

## AMENDMENTS SUBMITTED FOR PRINTING

### IMMIGRATION REFORM AND CONTROL ACT

AMENDMENT NO. 1905

(Ordered to be printed and lie on the table.)

Mr. GRASSLEY (for himself, Mr. THURMOND, Mr. HUDDLESTON, Mr. LAXALT, Mr. EAST, and Mr. HEFLIN) submitted the following amendment intended to be proposed by them to the bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

● Mr. GRASSLEY. Mr. President, the amendment I am introducing today to S. 2222, the Immigration Reform and

Control Act, provides for local law enforcement agency assistance in the area of immigration. I offered a similar amendment to S. 2222 which was adopted in the Immigration Subcommittee. It authorized the Attorney General of the United States to enter into agreements with local law enforcement agencies so that such agencies could assist the U.S. Immigration Service in the extremely difficult task of regaining control over immigration. Though the proposal was removed from the bill in the full committee markup, clear support was demonstrated by the 7-10 vote (this vote was on an initial draft which did not include some specific language requiring training, time limits, notice and comment, and certification of need. It has since been revised to include these things).

In proposing interagency cooperation for immigration control this amendment proposes nothing new. There has always been some degree of cooperation between all agencies engaged in law enforcement. In fact, immigration officers and law enforcement officers at the State, county, and municipal level have often cooperated effectively in enforcing immigration law, even though this has been on an ad hoc basis, varying from State to State, district to district, and from official to official. A recent Arizona Federal district court case held that local officials do have the authority to enforce the Federal immigration laws, see *Gonzales* v. *City of Peoria, Arizona* CIV 78-6181, D. Ariz., (filed April 19, 1982). This authority originates primarily from State law. However as the Supreme Court noted in *Testa* v. *Katt* 330 U.S. 386, 389-91 (1947) there is historical precedent for delegating such authority to the States:

> The first Congress that convened after the Constitution was adopted conferred jurisdiction upon the state courts to enforce important federal civil laws, and succeeding Congresses conferred on the states jurisdiction over federal crimes and actions for penalties and forfeitures.
>
> Enforcement of federal laws by state courts did not go unchallenged. Violent public controversies existed throughout the first part of the Nineteenth Century until the 1860's concerning the extent of the unconstitutional supremacy of the Federal Government. During that period there were instances in which this Court and state courts broadly questioned the power and duty of state courts to exercise their jurisdiction to enforce United States civil and penal statutes or the power of the Federal Government to require them to do so. But after the fundamental issues over the extent of federal supremacy had been resolved by war, this Court took occasion in 1876 to review the phase of the controversy concerning the relationship of state courts to the Federal Government. *Claflin* v. *Houseman*, 93 U.S. 130. The opinion of a unanimous court in that case was strongly buttressed by historic references and persuasive reasoning. It repudiated the assumption that federal laws can be considered by the states as though they were laws emanating from a foreign sovereign. Its teaching is that the Constitution and laws passed pursuant to it are the supreme laws of the land, binding alike upon states, courts, and the people, "any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

It is clearly constitutional for the Federal Government to enlist local cooperation in the area of immigration control. My bill merely requires appropriate training if the local agencies assist INS, something which is presently occurring informally however without safeguards which proper training would provide.

Not only is the delegation of enforcement powers constitutional, there is definitely a legitimate State interest in the area of immigration control which should be appropriately addressed through local assistance. Though the Supreme Court recently indicated that, absent congressional policy, State action limiting access to free education to only those demonstrating legal residence is a denial of equal protection, the Court stated that illegal immigration is indeed a State concern.

> As we recognize in *DeCanas* v. *Bica* 424 U.S. 351 (1976), the States do have some authority to act with respect to illegal aliens, at least where such action mirrors federal objectives and furthers a legitimate state goal. 424 U.S. at 361. see *Pyler* v. *Doe*, slip opinion 80-1538.

The Court continued in a footnote,

> Although the State has no direct interest in controlling entry into this country, that interest being one reserved by the Constitution to the Federal Government, unchecked unlawful migration might impair the State's economy generally, or the State's ability to provide some important service. Despite the exclusive federal control of this Nation's borders, we cannot conclude that the States are without any power to deter the influx of persons entering the United States against Federal law, and whose numbers might have a discernible impact on traditional state concerns. See *DeCanas* v. *Bica*, supra. 424 U.S., at 354-356.

I submit that local law enforcement assistance is not only constitutional but an appropriate policy in furtherance of protecting these legitimate State concerns.

The need for such legislation is demonstrated by a specific incident which took place at Fort McCoy, Wis. Fort McCoy was a resettlement center for Cuban entrants who arrived in the 1980 Mariel boatlift. The Wisconsin State attorney general issued an opinion that State and local law enforcement officials would be subject to lawsuits for false arrest and imprisonment if they assisted INS during the period the fort was used in this manner. The opinion relied on Griffin Bell's directive that only INS had the power to enforce the immigration laws. This directive is still in effect though the informal INS policy seems to defy it as indicated by a recent sweep which took place in North Carolina where a number of local deputies assisted INS in the apprehension of illegal aliens. The need for this assistance was demonstrated to me personally during my January visit to El Paso where I observed the tremendous burden placed upon our Border Patrol in trying to control that area.

Plainly what is really needed is to put interagency cooperation in the enforcing of immigration laws on a firm statutory basis not subject to the interpretative whims of various administration officials. In this respect, this amendment could be a major step in establishing a uniform system of immigration control while protecting the legitimate rights of aliens.

I firmly believe that the extent and nature of interagency cooperation can be carefully circumscribed in model agreements that would provide elaborate safeguards for civil rights and constitutional procedures.

Specifically, the amendment provides that the agreement must contain a finding that the INS is unable to adequately enforce the immigration laws, making outside assistance necessary. The additional requirements of public notice and comment and a 1-year time limitation on the agreement will insure that assistance is invoked only when and where it is needed.

Moreover, graduate level police academy training courses can be devised to put this cooperation on the highest professional basis. No sensitive and sophisticated training now exists. With this type of training the ability of local law enforcement officials to assist the INS in a fair, humanitarian and sensitive fashion would be greatly enhanced.

The Select Commission on Immigration and Refugee Policy recommended that an immigration enforcement system be in place before major immigration reforms, such as amnesty or employer sanctions, were passed into law and I fully agree with those recommendations. In that the administration does not plan for a significant increase in immigration enforcement personnel, interagency cooperation is needed now as we move to implement the new provisions of S. 2222.

Without consistent cooperation from local law enforcement agencies the Immigration Service cannot effectively enforce immigration laws within the United States. The Border Patrol associations, both active and retired, along with the National Sheriffs Association and the Fraternal Order of Police firmly support this amendment. It is time we attempt to solve this problem with appropriate legislation.

I ask unanimous consent that some letters of support be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE FRATERNAL ORDER OF RETIRED BORDER PATROL OFFICERS,
*Vienna, Va., May 14, 1982.*

Hon. CHARLES GRASSLEY,
*Russell Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR GRASSLEY: This is to express the appreciation of the Fraternal Order of Retired Border Patrol Officers for your recent, most worthy contributions on behalf of immigration reform. Our members are especially impressed with your proposed amendment to S. 2222, which would authorize agreements with state and local law enforcement agencies, enabling them to cooperate with INS in the amelioration of illegal alien controls.

The Bell directive of 1978 was the coup de grace to an already overwhelmed immigration enforcement program. Loss of the carefully nurtured liaison with thousands of dedicated lawmen throughout the country left the meager forces of INS foundering in an unbelievable morass of job seeking, poverty plagued, illegal entrants. We applaud your recognition and legislative action in this regard.

It is our belief that agreements under your amendment, carefully couched to safeguard civil rights and constitutional considerations, can be sufficiently effective as to treble the efficiency of INS interior controls. Combined with other salient features of S. 2222, this could well mean the release of several million jobs for deserving unemployed Americans; it could significantly reduce the extent burden on state and local medical and other welfare facilities; and it could prove something of a hedge, if, indeed, mass amnesty were to come to pass as currently delineated in the bill.

Our sincere thanks,

GORDON J. MACDONALD,
*Secretary.*

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NATIONAL BORDER PATROL COUNCIL,
*May 11, 1982.*

Hon. ALAN K. SIMPSON,
*U.S. Senate,*
*Dirksen Senate Office Building*
*Washington, D.C.*

DEAR SENATOR SIMPSON: This organization, representing Border Patrol employees nationwide, enthusiastically supports and requests your favorable consideration of the amendment to Section 401 of S. 2222 offered by Senator Grassley.

The amendment, which would allow the Attorney General to enter into cooperative agreements with state and local law enforcement agencies for assistance in enforcing the immigration laws, can be a valuable tool in high traffic locations and areas where Border Patrol and other INS enforcement personnel are spread thin. Rather than being a new and radical proposal, the amendment would only allow formalization and strict control of what was a common practice prior to the June 23, 1978 issuance of then Attorney General Griffin Bell's policy memo prohibiting the involvement of state and local law enforcement officials.

Having worked for the past fourteen years on the sparsely staffed northern border, where stations are often hundreds of miles apart, I can attest to the invaluable assistance rendered by knowledgeable and highly motivated officers of state and local agencies prior to establishment of the 1978 policy. It was not at all unusual for the New York State Police and/or the local Sheriff's Department to provide vehicles and two to eight officers to assist one or two Border Patrol Agents in surrounding large migrant labor camps containing known illegals in remote agricultural areas. State and local officers were also given informal training in the basics of immigration laws and documents for their guidance in dealing with suspects during the course of their normal duties when Border Patrol Agents were not in the area. Where an effective liaison program was conducted, these agencies were enthusiastic in providing all types of assistance, including access to their informants, detention facilities and other resources.

The following aspects should be addressed in deliberation on this legislation and in subsequently structuring said cooperative agreements:

1. Provision for a limited (2 to 4 hours) protective custody solely to prevent flight, pending in-depth questioning by a USI&NS enforcement officer;

2. Training in the basics of immigration laws and documents;

3. Federal assumption of liability when state and local officers are operating within the scope of their authority while assisting in enforcement of the immigration laws.

While state and local law enforcement officials will not have the full authority, extensive training and experience of a Border Patrol Agent of INS Criminal Investigator in enforcing the highly complex and specialized immigration laws, they are capable of effectively supplementing I&NS efforts. Past experience has shown this type of cooperation to be a useful tool in immobilizing prime suspects until they can be questioned by an Immigration Officer qualified to determine the alien's status.

Thank your for your consideration and for your continuing leadership in formulating an effective immigration policy.

Sincerely,

RICHARD L. BEVANS,
*President.*

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GRAND LODGE,
FRATERNAL ORDER OF POLICE,
*Baltimore, Md., June 7, 1982.*

Hon. CHARLES GRASSLEY,
*U.S. Senate,*
*Russell Building,*
*Washington, D.C.*

DEAR SENATOR GRASSLEY: Your amendment to the Simpson-Mazzoli, Immigration Reform Bill, H.R. 5872; S. 2222, that would authorize interagency cooperation on immigration control has much merit and we sincerely thank you for recognizing that cooperation between agencies is definitely lacking. We are sure you are aware of the directive issued by Attorney General Griffin Bell on June 23, 1978, and still in effect, that excludes and/or discourages most forms of cooperation between agencies. Quite naturally this had quite an effect in undermining what cooperation there was. We feel sure that your amendment will correct the position that we presently find ourselves in. More cooperation between agencies is needed in order that we can do our job without going through a lot of red tape and wasting much needed time and money that could be channeled to other projects.

The Fraternal Order of Police consisting of over 162,000 members from Federal, State and local law enforcement throughout our nation come out in support of your amendment and strongly urge the Judiciary Committee to also vote in favor of this needed legislation.

Sincerely,

VINCE MCGOLDRICK.●

## AMENDMENT AND EXTENSION OF CERTAIN HOUSING PROGRAMS

AMENDMENT NO. 1906

(Ordered to be printed and to lie on the table.)

Mr. COCHRAN (for himself, Mr. CRANSTON, Mr. ANDREWS, Mr. EAST, Mr. SASSER, Mr. HUDDLESTON, Mr. EAGLETON, Mr. JEPSEN, Mr. STENNIS, Mr. RIEGLE, Mr. LEAHY, Mr. SARBANES, Mr. GRASSLEY, Mr. DIXON, Mr. STAFFORD, Mr. PRESSLER, Mr. ABDNOR, Mrs. HAWKINS, Mr. PROXMIRE Mr. COHEN, Mr. INOUYE, Mr. BURDICK, Mr. HEFLIN, Mr. JOHNSTON, Mr. FORD, Mr. ZORINSKY, Mr. THURMOND, and Mr. BAUCUS) submitted an amendment intended to be proposed by them to the bill (S. 2607) to amend and extend certain Federal laws relating to housing, community, and neighborhood development, and related programs, and for other purposes.

Mr. COCHRAN. Mr. President, today I am pleased that 26 colleagues are joining Senator CRANSTON and me in submitting an amendment to title V of S. 2607. Title V of S. 2607 would replace current rural housing programs administered by the Farmers Home Administration with a block grant to the States. Our amendment would essentially reauthorize existing programs at the 1982 levels with some selected reductions. Farmers Home rural housing programs were created because private industry did not meet the needs of rural areas. It is our belief that rural America has problems and needs separate and distinct from those of more urban areas. Therefore, it is necessary to continue housing programs in order to service the rural populace.

For over 30 years FmHA has provided rural people of all kinds—the farmer, the elderly person, the farmworker—with needed housing assistance. Currently about 400,000 households own units financed by FmHA. Overall FmHA has financed 1.64 million units of single-family housing. The average annual income of these families is about $10,500. About 255,000 households—over 30 percent of which are elderly, live in FmHA financed rental housing. Almost 40,000 elderly households have received FmHA grants to repair and weatherize their homes.

Farmers Home programs operate as a supplement to credit available from private lenders, not in competition with them. In fact, they often compliment each other because in many cases rural people do not have adequate access to credit. There are fewer lending institutions and the institutions that are present have fewer assets per capital available for lending. Even if the rural community has a savings and loan institution, rural resi-

dents often do not have the means to pay for homes at conventional rates.

One of the advantages of Farmers Home is that it has approximately 2,000 officers in over 3,000 counties across the country to provide services to rural residents. These offices mean that they have a tremendous outreach capability which is a vital asset to the rural communities. They are the only system in the country equipped to dispense housing credit in every rural locality.

It is our belief that rural housing is a national problem. The Federal Government should provide leadership for devising strategies and providing adequate resources to combat this problem. We propose that in order to meet this obligation, we should reauthorize FmHA housing programs at a level slightly below the fiscal year 1982 appropriation level. In doing so, our amendment targets assistance to the worst housed and poorest households. At the same time, propose increasing the tenants' contributions to the housing costs.

While the effort to use a block grant program for rural housing is in line with the efforts being made in urban areas, even the President's Commission on Housing recognized that rural housing problems are unique. The Commission pointed out that rural areas have a higher incidence of substandard housing, and the necessary institutions for mortgage financing, construction and maintenance are few or nonexistent.

There are numerous problems with a block grant for rural housing. The States will be forced to contend with the increased burden of administation. In many cases a new State bureaucracy will have to be set up to administer the block grant program and few, if any, States could offer the kinds of services offered by the network of Farmers Home offices. States cannot afford to duplicate FmHA services nor can they afford to provide 10 percent matching funds as required under title V of S. 2607.

Administrative problems created by title V of S. 2607 will also affect FmHA since they would have to maintain existing contracts while trying to cope with the block grant program. Under this bill, if a State does not choose to participate in the block grant program, then FmHA would have to handle that State's program or contract the program out. The bill also requires congressional approval of all FmHA housing program rules and regulations. If enacted, this provision would become the 13th law or rule FmHA must follow when issuing regulations, making the process excessively slow and complex. Instead of diminishing the effectiveness of FmHA to provide housing assistance to rural areas, I believe that we should work to improve the current programs they administer.

The block grant proposal would eliminate the treatment of housing loans as investments thereby classifying them as budget liabilities. Presently sales of loan notes and other security instruments held by FmHA can be counted as sales of Government-owned assets. The result of disallowing this practice would be an addition of an estimated $2.75 billion as direct outlays in the Federal budget. This would all but prohibit any rural housing program in fiscal year 1983.

I believe, as do my colleagues from both sides of the aisle, that FmHA has worked well. While FmHA may be improved, it should not be dismantled hastily. To fulfill our obligation to rural America, I urge your support for the amendment to reauthorize FmHA at a reduced fiscal year 1982 level.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

Beginning with page 110, line 13, strike out through page 149, line 18, and insert in lieu thereof the following:

TITLE V—RURAL HOUSING AUTHORIZATIONS

SEC. 501. Section 513 of the Housing Act of 1949 is amended—

(1) by striking out "$3,700,600,000 with respect to the fiscal year ending September 30, 1982" in subsection (a) and inserting in lieu thereof "$3,400,600,000 with respect to the fiscal year ending September 30, 1983";

(2) by striking out "and" at the end of subsection (a)(3), by striking out the period at the end of subsection (a)(4) and inserting in lieu thereof "; and", and by adding at the end of subsection (a) the following new paragraphs:

"(5) not more than $100,000,000 of such amount so approved for such fiscal year shall be available for loans under section 502 that are not assisted under section 521 (a)(1)(B); and

"(6) not more than $940,000,000 of such amount so approved for such fiscal year shall be available for loans under section 515.";

(3) by striking out "September 30, 1982" each place it appears in subsection (b) and inserting in lieu thereof "September 30, 1983";

(4) by striking out "$50,000,000" and "$25,000,000" in subsection (b)(2) and inserting in lieu thereof "$39,000,000" and "$15,000,000" respectively; and

(5) by striking out "$25,000,000" in subsection (b)(3) and inserting in lieu thereof "$13,750,000".

EXTENSIONS

SEC. 502. (a) The following provisions of title V of the Housing Act of 1949 are amended by striking out "September 30, 1982" and inserting in lieu thereof "September 30, 1983":

(1) Section 515(b)(5).

(2) Section 517(a)(1).

(3) Section 521(a)(2)(D).

(b)(1) Section 523(f) of such Act is amended—

(A) by striking out "$5,000,000 for the fiscal year ending September 30, 1982" in the first sentence and inserting in lieu thereof "$15,000,000 for the fiscal year ending September 30, 1983"; and

(B) by striking out "September 30, 1982" in the second sentence and inserting in lieu thereof "September 30, 1983".

(2) Section 523(g) of such Act is amended by striking out "$3,000,000 for fiscal year 1982" and inserting in lieu thereof "$2,000,000 for fiscal year 1983".

DIRECT AND INSURED LOAN AMENDMENTS

SEC. 503. Section 515 of the Housing Act of 1949 is amended—

(1) in subsection (b)—

(A) by striking out "and" at the end of clause (5);

(B) by striking out the period at the end of clause (6) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following:

"(7) loans may be made to owner-tenants who are otherwise eligible under this section to purchase and convert single-family residences to rental units of two or more dwellings.";

(2) by adding at the end of subsection (c) the following new sentence: "The Secretary shall not promulgate rules which prohibit or discourage the rehabilitation or purchase of existing buildings for the purpose of providing housing which is otherwise economical in cost and operation."; and

(3) by inserting ", including section 502 units held in inventory," after "existing housing" in subsection (d)(4).

TARGETING

SEC. 504. (a) Section 517(o) of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(3) In order to carry out the purpose of paragraph (2), the Secretary shall issue rules to become effective not later than 180 days after the date of enactment of this paragraph, which shall assure, to the extent practicable, that assistance under this title is provided to applicants most in need. In this regard, such rules shall provide that applications for assistance from households with the lowest incomes and most severe housing problems receive priority consideration for assistance. In determining which applications demonstrate the most severe housing problems, the Secretary shall consider evidence of structural defects in the applicant's dwelling, lack of complete or adequate plumbing, the extent of overcrowding, the existence of hazards to health or safety, and the number of persons to be assisted. Applications should be periodically ranked and those that demonstrate the greatest need processed first, except that any application for assistance pursuant to section 501(a)(4) of this title shall be processed when it is received.".

(b) Section 521(a)(2)(D) of the Housing Act of 1949 is amended by adding at the end thereof the following new sentence: "Of such rental assistance authority which is approved in appropriations Acts for fiscal year 1983, the Secretary shall utilize at least $173,000,000 to provide assistance on behalf of tenants of newly constructed or substantially rehabilitated housing and related facilities for which assistance is provided with respect to such fiscal year under sections 514 and 515.".

TENANT CONTRIBUTIONS

SEC. 505. Section 521(a)(2)(A) of the Housing Act of 1949 is amended by striking out "25 per centum of income." and inserting in lieu thereof "the highest of (i) 30 per

centum of the family's monthly adjusted income, (ii) 10 per centum of the family's monthly income; or (iii) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing cost, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated. Any rent or contribution of any recipient shall not increase as a result of this section or any other provision of Federal law or regulation by more than 10 per centum during any 12-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to this subsection or other law, or regulation.".

## IMMIGRATION REFORM AND CONTROL ACT OF 1982

AMENDMENTS NO. 1907 AND 1908

(Ordered to be printed and lie on the table.)

Mr. HAYAKAWA submitted an amendment intended to be proposed by him to the bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

Mr. HAYAKAWA. Mr. President, the Senate will soon be considering S. 2222, the Immigration Reform and Control Act of 1982. I rise today to discuss to amendments that I will be offering, amendments to make the measure more realistic, more workable and more compatible with the social and economic realities of the Western United States.

My first amendment, the agricultural guestworker program is designed to deal effectively with the inevitable flow of transitory agricultural workers into and out of our Nation. In our Southwestern States agriculture depends on alien workers for more than 50 percent of the work force during harvest periods. For the most part these workers are driven to our country by difficult, if not impossible, economic conditions in their homeland. Their intent is solely to earn money and return home to improve the lives of their families. For them, this migration is a matter of survival. For their employers, their availability is also a matter of survival.

Over one-third of our Nation's fruit and vegetables come from California. Crops such as peaches, grapes, lettuce and tomatoes are very, very labor intensive. With perishable crops such as these, time is of the essence. Farmers do not have the luxury of delaying harvest. When the crop is ripe, it must be harvested and moved to the market immediately. For example, the raisin harvest in just one county, Fresno, requires in excess of 75,000 workers in a brief period of a few weeks. The local labor force is totally inadequate to meet the farmers' needs. Labor must be imported and in most cases, the workers are illegal aliens from Mexico.

The H-2 temporary worker program will not work in the West. S. 2222 is fatally flawed by its reliance on this cumbersome, slow and complicated program. The agricultural guestworker program that I am proposing will meet the needs of Western agriculture. It is oriented to free market labor conditions, it is efficient, and the Federal overhead required to operate it will be minimal. My program will also satisfy the public's concern by assuring that the workers will return to their home country when there services are no longer needed.

The second amendment I will be offering will place a requirement on the Immigration and Naturalization Service to obtain a search warrant prior to entering a farm or other agricultural operation. This amendment is fair and reasonable. It enjoys the support of a wide diversity of organizations, from the American Farm Bureau Federation to the League of United Latin American Citizens.

Mr. President, at this point I request unanimous consent to have printed in the RECORD two "Dear Colleague" letters which I have recently circulated. The first deals with the agricultural guestworker program, and contains a letter, a memo on the inadequacies of the H-2 program, and the exact language of the program that I will be offering on the floor. The second deals with my proposal to require search warrants before the INS enters a farm or other agricultural operation.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, D.C., June 15, 1982.*

DEAR COLLEAGUE: As you know, the Senate will soon be considering S. 2222, The Immigration Reform and Control Act of 1982. This letter is to inform you of an amendment that I intend to offer on the Floor. Your cosponsorship is welcomed and would be heartily appreciated by farmers in the Western United States.

My amendment provides for an Agricultural Guest Worker Program and is designed to complement the H-2, temporary worker program which is currently a part of S. 2222. The inclusion of the H-2 program by the Committee is based on the clear recognition that a need exists in our nation for temporary alien workers, workers to take jobs which domestic workers refuse.

However, H-2 as it is currently proposed, will be of little or no use to agricultural employers in the West. Our employment patterns are different, our farming practices are different, and our labor needs simply cannot be compared to those of employers who have historically utilized the H-2 program.

I have included a copy of a memorandum which I sent to the Judiciary Committee detailing the problems with the H-2 program. I trust that upon review of this document you will recognize that indeed, an Agricultural Guest Worker Program is *essential.*

Briefly, my amendment calls for the Attorney General and the Secretaries of Labor and Agriculture to establish regulations for the admission of temporary workers. The Attorney General would establish numerical limits on the issuance of nonimmigrant visas, which would allow workers into the U.S. for up to 180 days per year. As opposed to the "Bracero like" approach of the H-2 program, workers would not be bound to work for a specific employer. However, guest workers would be prohibited from specific work sites if employees or employers demonstrate that aliens will displace available, qualified and willing domestic workers. As an inducement for the workers to return home, my amendment provides for the return to the worker of the Social Security taxes they have paid and the contributions the employer has made in their behalf. The money would be returned in the country of origin and only if the temporary worker complied with the requirements of the program.

For greater detail I have included my Agricultural Guest Worker amendment. If you wish to join as a cosponsor, please inform myself or Jason Peltier of my staff at x43841.

Sincerely,

S. I. HAYAKAWA.

MEMORANDUM

To: Senate Judiciary Committee.
From: S.I. Hayakawa.
Re: Immigration law reform.

I. PROBLEMS WITH S. 2222 (SIMPSON)/THE WESTERN PERSPECTIVE

1. The measure fails to meet the labor market needs of Western agriculture.

A. Farmers in the West currently rely on illegal aliens to make up in excess of 50 percent of their workforce.

B. Western agriculture has legitimately grown to rely on the services of alien workers. At the same time they have been unable to attract domestic workers to do farm work, primarily for two reasons; 1) The work is hard and the pay relatively low, especially when compared to income from welfare, food stamps, etc., and; 2) The seasonal demand for large numbers of workers is highly variable, job tenure brief, and potential for advancement minimal within the realm of agricultural employment.

2. S. 2222 is based on the belief that the legalization (amnesty) provision and the H-2, temporary worker program will satisfy those employers who currently rely on illegal aliens to make up their workforce.

A. Legalization will only take care of urban illegals who are employed year-round and have been in the U.S. continually.

B. Legalization may be of temporary benefit to agriculture but:

1. Once legalized, rural workers will migrate to cities where year/round employment is available.

2. Most of the illegals working in agriculture are migrants. They come to the U.S. for only a few months out of the year, thus, they will not qualify for permanent resident status. More significantly, they have little or no desire to stay in the U.S., their hearts, their families and their allegiance remain in Mexico.

3. The H-2, temporary worker program has been available for several years but has been of little help to agriculture.

A. H-2 has brought in only about 13,000 agricultural workers a year, the bulk of which have gone to the sugar cane fields of Florida and the apple groves of New York.

B. Simply in terms of complying with the Department of Labor rules and regulations, the program has been very expensive to deal with . . . a red tape nightmare . . . a lawyers dream.

4. The H-2 program simply cannot be transferred to the West.

A. Western farmers demand large numbers of workers for relatively short periods of time. The workers must have the freedom to move from employer to employer, from crop to crop, and from county to county. Problem: H-2 workers are contracted to work with a single employer (or association of employers) and transferring H-2 workers between employers is cumbersome. The lack of freedom for workers is not only impractical, it is abusive of their basic rights and of their integrity.

B. It is difficult to predict actual dates of need and numbers of workers required because of weather and market variability. The long lead time required for the application process is onerous. And the requirement that workers be guaranteed pay for ¾ of the contract period is a tremendous liability for farmers.

C. The short harvest season for many of the labor intensive, highly perishable crops grown in the West results in employers demanding large numbers of workers for short periods of time (less than one month). Such brief employment makes the requirements that employers provide transportation from the country of origin, housing and food impossible to justify.

D. The certification process which requires a finding that there are insufficient numbers of domestic workers available and willing to work is complicated, costly and time consuming. In addition, the institutional bias of the Department of Labor is difficult to deal with.

E. The adverse wage effect considerations of the H-2 program will artificially drive up the prevailing wages in farm communities.

5. The employer sanctions for hiring illegal aliens are unacceptable.

A. Given the tremendous reliance of farmers on illegal aliens and lacking a workable program to bring alien workers into the country on a temporary basis—we must oppose sanctions. They will punish farmers for something which is beyond their control. Realistically, without an ample supply of alien workers, farmers will have no choice but to hire whomever is available. The alternative of allowing their crops to go unharvested is unthinkable.

6. The push factors which compel Mexican workers northward cannot be legislated away. The bill is based on the faulty assumption that by taking away the opportunity to work, the flow of illegals will be stopped.

A. There are major structural problems with the Mexican economy. 45 to 55 percent of the working age population is unemployed or underemployed. The recent 40 percent devaluation of the Peso makes dollar earnings more attractive than ever.

B. The population of Mexico is over 70 million and will double by the year 2000. The working age population is growing at 600 to 800 thousand a year and, at best, only about 450 thousand new jobs are likely to be created each year.

C. Given the above considerations, Mexican Nationals will have no choice but to come to the U.S. in search of jobs, jobs which will pay them up to ten times the amount they would earn at home for the same work.

D. S. 2222 will simply drive them further underground; false identifiers will abound and illegal aliens will continue to be a subclass within our society.

7. One of the driving assumptions of the bill is that the H-2 program is transitory and ultimately we must end our dependence on alien workers.

A. This assumption is faulty. We will rely on alien workers as long as we have such generous relief programs for those people who would most likely take the low paying, low status jobs that aliens most often take. The incentives to not work are simply too great and the alternative, hard work, is undesirable.

B. Not only will aliens do work for which it is near impossible to get domestic workers to do . . . they are harder workers and more reliable. This is simply because their motivation to work comes from their desire to earn money to support their families back home. While the motivation of many domestics is to show up for work in order to satisfy welfare requirements.

C. Demographers tell us that there will be a labor shortage in the Southwest by the year 2000. Especially in the "undesirable", physically demanding, manual occupations.

II. WHAT SHOULD BE DONE TO IMPROVE S. 2222 (SIMPSON)

1. An agricultural guest worker component must be added to the bill.

A. Western agriculture needs a relatively free flowing, flexible labor supply.

B. The current labor supply system works well, is efficient and is mutually agreeable to both employers and employees. However, the current system is illegal.

C. We need to legalize, regularize and direct, to a limited extent, the flow of temporary workers into and out of our country.

D. Farmers have adequately demonstrated that the domestic workforce is unwilling to perform, and meet the needs of the agricultural employers. Thus, the guest workers will not displace domestics.

E. The SIH proposal has a provision for excluding guest workers from a given worksite if it can be demonstrated that domestics are being displaced.

F. An agricultural guest worker proposal is compatable with the H-2 program. H-2 will continue to be of importance to the East coast.

G. The authorization for guestworkers to seek employment only in agriculture, combined with employer sanctions, should keep the temporary workers from moving into cities and competing with unemployed domestics.

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U.S. SENATE,
*Washington, D.C., June 16, 1982.*

DEAR COLLEAGUE: I recently introduced a bill (S. 2507) to require a properly executed warrant before an officer or employee of the Immigration and Naturalization Service (INS) may enter a farm or other agricultural operation.

I intend to propose this measure as an amendment when S. 2222. The Immigration Reform and Control Act of 1982, reaches the Senate Floor. Cosponsors of S. 2507 include Senators Cranston, Goldwater, Hawkins, Helms, Laxalt, McClure, Pressler, Schmitt, Symms, and Tower.

Currently the INS must obtain a warrant prior to entering any place of business excepting farms and ranches. I contend that farmers are entitled to the same standard of protection that other businessmen in our Nation enjoy.

INS statistics show us that 8 percent of the illegal aliens employed in the United States are working in agriculture. However, almost fifty percent of the undocumented alien workers apprehended are in agriculture. These figures reflect a bias in the enforcement activities of the INS. They demonstrate that the INS is enforcing the law by going to the industry in which it is the simplest and most cost effective to carry out the law.

The Border Patrol argues that because agricultural lands are "open fields" they are beyond the scope of protection of the Fourth Amendment. Their agents need not obtain consent, a search warrant, or show probable cause that some criminal activity is occurring prior to entering a farmer's fields. In short, Border Patrol agents enter agricultural lands at will to search for undocumented workers. However, unlike traditional "open fields" cases where law enforcement officers see the so-called "fruit of the crime", the only thing the Border Patrol witnesses are human beings working in the field. It is not until they illegally enter the field that an illegal versus legal status can be determined.

My amendment does not establish any special protection for farmers. It merely guarantees them the same rights and protections enjoyed by every other employer in our Nation. Likewise, the agricultural workers will be protected from the antagonism of impulsive interrogation by the INS.

The employer sanctions contained in S. 2222 make this change in law more important now than ever before. If you wish to join me as a cosponsor of this amendment, please inform myself or Jason Peltier of my staff at x43841.

Sincerely,

S. I. HAYAKAWA.

Mr. President, we have some tough decisions ahead of us. We also have a rare opportunity to address a problem of epidemic proportions. I trust my colleagues will give my amendments full consideration. It is also my heartfelt hope that we can act in a responsible and realistic manner on this issue of great social and economic import to the people of our great land.

Mr. President, I ask unanimous consent that the two amendments be printed in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 1907—Providing for Agricultural Guest Worker Program

Insert the following section after the existing section 211 and renumber the subsequent sections accordingly.

AGRICULTURAL GUEST WORKERS

SEC. 212. (a) Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by section 205(b) of this Act, is further amended by striking out "or" at the end of subparagraph (M), by striking out the period at the end of subparagraph (N) and inserting in lieu thereof "; or", and by adding at the end the following new subparagraph:

"(O) an alien having a residence in Mexico which he has no intention of abandoning who is a national of Mexico and is coming to the United States for a period not to exceed 180 days in any calendar year to perform temporary services or labor.".

(b) Section 214 (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(e)(1)(A) The Attorney General, the Secretary of Agriculture, the Secretary of Labor, and the Secretary of State, shall by regulation establish a program (hereinafter in this subsection referred to as 'the pro-

gram') for the admission into the United States of nonimmigrants described in section 101(a)(15)(O). The program shall include the imposition of monthly and annual numerical limitations, established under paragraph (2), on the issuance of nonimmigrant visas for such nonimmigrants. These visas shall be made available subject to such limitations to aliens described in section 101(a)(15)(O) in the chronological order in which the aliens submit applications for such visas.

"(B) Except as provided pursuant to paragraph (3)—

"(i) aliens shall not be required to obtain any petition from any prospective employer within the United States in order to obtain a nonimmigrant visa under the program, and

"(ii) such a nonimmigrant visa shall not limit the geographical area within which an alien may be employed.

"(2) The Attorney General shall establish monthly and annual numerical limitations on the issuance of nonimmigrant visas to aliens described in section 101(a)(15)(M), based on the number of seasonal or cyclical agricultural workers sought by employers in the United States. In establishing such numerical limitations, the Attorney General also shall consider historical employment needs in the United States, the availability of domestic workers, and the projected labor needs of prospective employers. The Attorney General shall consult with the Secretary of Agriculture, and the Secretary of Labor in establishing numerical limitations under this paragraph.

"(3) The Attorney General, on the request of the Secretary of Labor, and the Secretary of Agriculture, shall impose a restriction on the employment of aliens described in section 101(a)(15)(M) who are issued nonimmigrant visas under the program which prohibits the aliens from accepting employment provided by a specific employer or at a specific site if such employer, or employees of such employer or at such site, demonstrate to the Secretary of Labor, and the Secretary of Agriculture, that the aliens will displace available, qualified, and willing domestic workers. The Secretary of Labor, and the Secretary of Agriculture, shall establish a procedure for such employer and such employees to request, and the criteria for the imposition of, any restriction under this paragraph.

"(4) Any alien described in section 101(a)(15)(M) who obtains a nonimmigrant visa under the program and who violates—

"(A) any restriction with respect to the period of time for which the alien is allowed to remain in the United States, or

"(B) any restriction imposed under paragraph (3), shall be ineligible to obtain a nonimmigrant visa under the program during the 5-year period beginning on the date such violation occurs. Any alien who enters the United States unlawfully after the date the program becomes effective, is ineligible to obtain a nonimmigrant visa under the program during the 10-year period beginning on the date such entry occurred.

"(5)(A) The Secretary of State is authorized to take such steps as may be necessary in order to expand and establish consulates of the United States in Mexico in order to implement the program.

"(B) The Secretary of State shall cooperate with representatives of the Government of Mexico in order to insure that residents of Mexico are made aware of the nature and operation of the program.

"(C) The Secretary of Labor shall insure, to the extent practicable, that aliens who are nationals of Mexico and who reside in the United States are informed of the nature and operation of the program.

"(6) The Attorney General, the Secretary of Agriculture, and the Secretary of Labor, shall report to Congress semiannually regarding the program. Each such report shall include a statement of the number of nonimmigrant visas issued under the program, an evaluation of the effectiveness of the program, a description of any problems related to the enforcement of the program, and any recommendations for legislation relating to the program.".

(c) Section 245(c) (8 U.S.C. 1255(c)) is amended—

(1) by striking out "or" before "(3)", and

(2) by inserting "; or (4) any alien admitted as a nonimmigrant under section 101(a)(15)(O)" before the period at the end.

(d) It is the sense of Congress that the President should negotiate with representatives of the Government of Mexico to establish an advisory commission to consult with and advise the Attorney General regarding the regulations to be promulgated, and the monthly and annual numerical limitations to be established, under the program established under section 214(c) of the Immigration and Nationality Act.

(e)(1) Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end thereof the following new subsection:

"LUMP-SUM BENEFITS FOR CERTAIN NONIMMIGRANT MEXICAN WORKERS

"(x)(1) Upon the return to Mexico of an alien described in section 101(a)(15)(O) of the Immigration and Nationality Act after the performance of temporary services or labor in the United States under the program established under section 214(e) of such Act, an amount equal to the sum of—

"(A) the taxes imposed under section 3101 of the Internal Revenue Code of 1954 on the income of such alien consisting of remuneration for the performance of such services or labor, and

"(B) the excise taxes imposed under section 3111 of such Code on the employer or employers of such alien with respect to having such alien in their employ pursuant to such program,

shall be paid in a lump sum to such alien if it is demonstrated to the satisfaction of the Attorney General either in an application for such benefit filed after his return or by certification under paragraph (3), that he has not violated any restriction referred to in section 214(e)(4) of the Immigration and Nationality Act and has no intention of abandoning his residence in Mexico.

"(2) An application by an alien for a benefit under this subsection may be made only at the consulate of the United States in Mexico which is nearest the residence in Mexico of such alien, and payment of such benefit may be made to such alien only at such consulate.

"(3) The Secretary of State and the Secretary of the Treasury shall each, upon written request of the Attorney General make certification to the Attorney General with respect to any matter, determinable for the Attorney General by the Secretary of State or the Secretary of the Treasury, as the case may be, under this subsection, which the Attorney General finds necessary in administering this subsection.".

(2) Section 210(b) of such Act (42 U.S.C. 410(b)) is amended—

(A) in paragraph (19), by striking out "or,";

(B) in paragraph (20), by striking out "individuals."

and inserting in lieu thereof "individuals; or"; and

(C) by adding at the end thereof the following new paragraph:

"(21) Temporary service or labor performed by an alien described in section 101(a)(15)(O) of the Immigration and Nationality Act in the United States under the program established under section 214(e) of such Act.".

Purpose: To require a properly executed warrant before an officer or employee of the Immigration and Naturalization Service may enter a farm or other agricultural operation.

At the appropriate place add the following:

SEC. 111. (c) Section 287 (8 U.S.C. 1357) is amended by adding at the end thereof the following:

"(d) Notwithstanding any other provision of this section, other than paragraph (3) subsection (a), an officer or employee of the Service may not enter onto the premises of a farm or other agricultural operation without a properly executed warrant.".

## NOTICES OF HEARINGS

### SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Public Lands and Reserved Water to consider S. 1999, to amend the act to provide for the establishment of the Wolf Trap Farm Park in Fairfax County, Va., and for other purposes; and S. 2436, to designate the Mary McLeod Bethune Council House in Washington, D.C., as a national historic site and for other purposes. The hearing will be held on Friday, July 2, beginning at 9 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Public Lands and Reserved Water, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding this hearing you may wish to contact Mr. Tony Bevinetto of the subcommittee staff at 224-5161.

### SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Mr. WARNER. Mr. President, I would like to announce for the information of the Senate and the public that the field hearing in Honolulu, Hawaii, previoulsy scheduled for Monday, July 5 and Tuesday, July 6 has been postponed and will be rescheduled at a later date. The hearing was with regard to the regional reserve for the strategic petroleum reserve, the potential for coal usage and coal exports in Hawaii, and the geothermal potential in Hawaii.

For further information regarding this hearing you may wish to contact Mr. Roger Sindelar of the subcommittee staff at 224-4236.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BAKER. Mr. President, I ask unanimous consent that the Agriculture Committee be authorized to meet during the session of the Senate at 11:30 a.m. on Thursday, June 24, to consider pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Finance Committee be authorized to meet during the session of the Senate on Friday, June 25, to hold a markup on the spending and tax reconciliation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Finance Committee be authorized to meet during the session of the Senate on Thursday, June 24, to hold a markup on the spending and tax reconciliation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Finance Committee be authorized to meet during the session of the Senate on Monday, June 28, to hold a markup on the spending and tax reconciliation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Finance Committee be authorized to meet during the session of the Senate on Tuesday, June 29, to hold a markup on the spending and tax reconciliation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Finance Committee be authorized to meet during the session of the Senate on Wednesday, June 30, to hold a markup on the spending and tax reconciliation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ADDITIONAL STATEMENTS

### SUGGESTIONS TO IMPROVE WORK OF SENATE

● Mr. GOLDWATER. Mr. President, all Members of the Senate received a communication recently from our esteemed colleague, Senator MATHIAS, asking for suggestions as to how the work of the Senate might be improved. On my recent trip to Taiwan, having a few moments on my hands, I dictated by first reaction to that request, and so that my colleagues might have an idea of what my thinking is in this regard, I ask that a copy of the letter be printed in the RECORD.

The letter follows:

JUNE 4, 1982.

Hon. CHARLES MCC. MATHIAS,
*U.S. Senate,*
*Washington, D.C.*

DEAR MAC: This is being dictated on my recent visit to Taipei, Taiwan and I will add to it as other thoughts come to me. I am addressing it to you so you can transmit it to Senators Pearson and Ribicoff.

First, let me thank you and congratulate you on having Jim Pearson and Abe Ribicoff study ways that the Senate might better its production, the quantity of its production, and the dependability of the quality and the procedures. It certainly is long overdue.

Now, I will start by saying that possibly I am prejudiced, having served in the Senate as long as anyone there with the possible exception of two or three others. So, if my remarks carry you back through the years and give you an idea they are coming from an older man, somewhat prejudiced, that is probably the case.

Let me start by suggesting that we limit the number of bills that each Senator can introduce, including the number of amendments that each Senator can introduce during the course of a session. Following that, I would decide on some way to extremely limit the number of roll call votes. Possibly, you may want to go back to the days when the Majority or Minority leader had to hold up his hand before a roll call might be considered.

When I think that, during my first Congress, we had less than 200 votes and now we probably run over a thousand in every session, it leads me to believe that this is one of the great sources of poor performance and poor quality of legislation we are turning out.

When we have to literally spend entire days on the Floor of the Senate just to attend roll call votes, Committee work goes out the window. None of us attend all of the Committees that we should attend or are required to attend by virtue of our being members of them. I think this one single factor, the roll call votes, contribute as much as any other factor to the poor way the Senate is being run.

Now, getting back to the Floor, we have far too many staff assistants sitting on that Floor all day long. There are times when there are more AAs on the Floor than there are members of the Senate. I can assure you that, years ago, this was not allowed. In fact, I can remember when AAs were not even allowed to come on the Floor and if a Senator desired to participate in debate, he had better know the subject himself and not depend on some Edgar Bergen sitting by him and shoving the words and thoughts into his mouth. I would seriously consider eliminating all assistants but, if this cannot be done, at least limit it to one and limit the appearance on the Floor to the time that the particular subject that is called for is being discussed.

The unusual commotion and confusion caused by Senators filling the well of the Senate during votes must be eliminated. I think a suggestion made by Senator Randolph is a good one, that each Senator must speak behind his desk and not be allowed in the well at all.

Another problem that comes up, is what are we voting on. Well, that is something you fellows are going to have to come to grips with. We never used to have this when we didn't have so darn many votes, but maybe we can solve it by printing, before the vote, a sheet that would be placed on each Senator's desk that would allow him to make up his mind how to vote.

On top of that, another great source of confusion is the large number of lobbyists who inhabit the halls by the elevators and the Floor for every vote so they can tell their Senators how to vote. This should be taken care of if not eliminated.

I would also eliminate most of the recesses that we now have and substitute in their place a monthly period of three to five days when we could visit our homes and keep up with our constituents. I would seriously consider starting the year off with one day a week to participate in legislation on the Floor. Then, as the spring comes on, increasing that to two, then to three, and as summer approaches, we might consider everyday on the Floor to keep the legislation on the calendar moving and to allow us to have time to give proper attention to legislation in the committees.

With best wishes,

BARRY GOLDWATER.●

## BOSTON GLOBE ON EL SALVADOR

● Mr. KENNEDY. Mr. President, I would like to alert my colleagues to an important editorial on El Salvador which appeared earlier this month in the Boston Globe. In the past few weeks, our attention has been drawn to renewed violence in the Middle East and the cessation of hostilities in the South Atlantic. During this time, however, the poitical situation in El Salvador has deteriorated. The new regime in El Salvador has virtually abandoned promised land reforms, has sought to isolate and even threatened to eliminate the Christian Democratic Party, and has allowed for an upsurge of right-wing violence in the streets and countryside.

The new Salvadoran Government has failed to fulfill any hopes in El Salvador, the United States, or elsewhere that after the March elections there might be an improvement in the situation in El Salvador. Instead, we are witnessing a return to the strong-arm tactics and repressive military policies of the past. Once again, it is the people of El Salvador who suffer.

The Boston Globe outlines policy alternatives facing Congress regarding El Salvador. I agree that the Congress must express its strongest displeasure with the unacceptable direction that Government is taking and end all military aid to El Salvador unless a genuine effort is made to negotiate a political solution to the tragic conflict in that country. Mr. President, I recommend the Globe's editorial of June 5

to my colleagues and request that it be printed in full at this point in the RECORD.

The editorial follows:

AS EL SALVADOR UNRAVELS

Little noticed alongside the photogenic Falklands war, the gangrene of political decay has been deepening in El Salvador.

Evidence has been accumulating that the closely-watched elections two months ago have not moved the country closer to either the peace or democracy as the Reagan Administration had predicted. In recent days there has even been a report of fraud in the vote counting, aimed at boosting the "turnout" to make the results seem more impressive on the international scene.

The ruling right-wing coalition headed by Maj. Roberto d'Aubuisson has pushed the centrist Christian Democrats aside, gutted the land redistribution program and sent a subtle signal to the security forces and death squads that it's OK to start killing again. Confident that the Reagan Administration will support them, no matter what they do, they are moving blithely toward self-destruction.

The regime may rot to the point that the ingroup flees the country to rejoin pre-positioned bank accounts in Miami, Guatemala City and a dozen other favorite havens. The tragedy is that thousands more people will die and tens of thousands will be driven deeper into revolutionary anger.

It is important to note that the leftist guerrillas have little to do with what is going on at present. In a reversal of their aggressive tactics leading up to the elections, which had alienated many Salvadorans, the guerrillas have been lying low for the most part. They may be waiting for the regime to discredit itself and unravel on its own.

Meanwhile, the Foreign Relations Committee of the U.S. Senate, to its credit, has taken a stand. Angered by the rolling back of the land redistribution program—the *sine qua non* of any effort to win support in the countryside—the committee recently voted 12-0 to slash $100 million in military aid. The committee debate was laced with frustration.

"It's tragic," said Sen. Paul Tsongas. "We can't back down. We've got to see this as a watershed. To a large extent the history of El Salvador is being written right here in this committee."

"You guys have got to do something," Sen. Christopher Dodd (D-Conn.) implored one member of a State Department delegation that tried to persuade the senators to postpone their decision. "You guys have got to go down there. . . ."

It's hard at this point to see what American emissaries to Salvador can do. Two days ago, a right-wing group denounced U.S. Ambassador Deane Hinton in a newspaper ad, accusing him of "abusing our hospitality." Hinton had merely been warning that political attitudes in the United States will not tolerate a suspension of land reform. That was too much for the Salvadoran right. "You overstep authority as ambassador, acting like a colonial ruler," the group charged in the ad. The Salvadoran regime has reportedly even cabled the State Department asking that Hinton be removed.

U.S. leverage over the situation in El Salvador is limited. There is no easy way to force-feed moderation.

The self-righteous rightists behind the newspaper ad and the alleged telegram apparently don't understand that Americans also are fed up with today's Salvadoran norm. That norm includes the shootings, the beheadings of Christian Democrats; the prolonged shielding of killers of archbishops, American nuns and Dutch journalists; the terrorizing of moderates who venture into the fringe of political activity, such as the head of the Green Cross ambulance corps kidnaped and accused of leftist sympathies last week; and the endless rapes, machete murders and shootings of defenseless civilians all over, in slum and country hamlet.

If there is hope in Salvador, it almost certainly lies outside the present government. There are rumblings that young army officers are planning a coup, to be followed with a new coalition government linking Christian Democrats and moderates among the guerrillas.

For the moment, Congress and the State Department must maintain pressure on the present Salvadoran regime. This will be a rough and thankless process, less carrot than stick, but until policies emerge that deserve American backing, it is the only available course.●

## BUT WE NEED CHEMICAL WEAPONS

● Mr. WARNER. Mr. President, on May 29, 1982, the Washington Post published an excellent letter by my distinguished colleague from Utah, Senator JAKE GARN, which clarified his position concerning the need for the United States to maintain a credible chemical retaliatory stockpile and the importance of binary munitions to insuring the effectiveness of that stockpile. Senator GARN's letter, written in response to a column by Mary McGrory, sets the record straight in a most helpful way; and, reflects views consistent with the testimony by the Armed Services Committee during hearings on the fiscal year 1983 authorization bill. I commend Senator GARN's response to Ms. McGrory's article to the attention of my colleagues and ask that it be printed in the RECORD at this point.

The letter follows:

[From the Washington Post, May 29, 1982]

BUT WE NEED CHEMICAL WEAPONS

In The Post on May 6, my name and views were associated with the debate on chemical weapons in two separate references. I would, therefore, like to clarify my position on this critical national security issue.

As to the characterization of me by Mary McGrory as "an anything goes zealot on national security," it suffices to say that, considering the source, I accept the remark as an unintentional compliment.

With respect to the substance of the debate, my position is the United States should proceed with the production of binary chemical munitions as one element of a balance security policy involving efforts to upgrade our defensive chemical warfare equipment and training and a concerted effort to negotiate a complete and verifiable ban on the development, production and stockpiling of chemical weapons.

While I would argue that the overall state of our existing stockpile is good, one cannot ignore the facts that less than 10 percent of that stockpile is in munitions with some military utility and that signs of physical deterioration have been identified. The production of binary chemical munitions will increase the military value of our stockpile, thereby significantly improving its deterrent characteristics. Production of a modern chemical deterrent will also give us greater flexibility in demilitarizing those antiquated elements of our existing stockpile.

How many of us would consider it fair if we were forced to fight an opponent with our hands and feet bound? Yet this is exactly what is being proposed by those who ask our soldiers to rely solely on protective clothing to guard against Soviet use of chemical weapons. I have talked to the men and women of our armed forces who would have to operate in these extremely bulky, confining and uncomfortable protective suits and masks. Without an ability to force the other side into similar protective gear as a consequence of a U.S. retaliatory strike, our forces would be operating at a severe and unnecessary disadvantage; this is a judgment that is vigorously endorsed by our troops in Europe.

While one sometimes hears the charge that the United States is about to spend billions of dollars in producing chemical weapons, thereby igniting a new aspect of the arms race and depriving other defense and nondefense programs of needed revenue, the fact is that only a small part of chemical warfare expenditures will go for retaliatory weapons. The Reagan chemical warfare deterrent program during the period of fiscal year 1983-87 is projected to cost between $6 billion and $7 billion. Expenditures for defensive equipment will account for about two-thirds of this amount. The remaining funds will be used to produce binary munitions and provide demilitarization facilities to deal with obsolete stocks.

Both the United States and the Soviet Union are parties to the 1925 Geneva Protocol and the 1975 Biological and Toxin Weapons Convention. Unfortunately, that has not stopped the Soviets and their surrogates from using biological toxic weapons against the defenseless peoples of Afghanistan, Laos and Cambodia. This merely underscores the necessity that any agreement seeking to ban the development, production and stockpiling of chemical weapons be confidently verifiable. This is, however, exactly the issue on which U.S. efforts to negotiate with the Soviets have faltered. Nonetheless, the United States continues to work through the U.N. Committee on Disarmament to seek a comprehensive and verifiable agreement with respect to chemical weapons.

JAKE GARN,
(A U.S. Senator from Utah.)●

## A TURNING POINT IN U.S. FOREIGN POLICY

● Mr. KASTEN. Mr. President, President Reagan's decisive restrictions on American equipment and technology are a great sign for American foreign policy. The President displayed shrewd political leadership by overriding the shortsighted request made by his advisers and our NATO allies, and holding firm to his principles. I welcome this an a new era of strong, rational Presidential initiative.

The lead editorial in yesterday's Wall Street Journal, entitled "Turning

Point?" relates directly to this new initiative. The editorial accurately discusses the precarious credit network the Soviet pipelines would create. The Europeans and the Japanese seem to be blinded by the prospects of a short-term recessionary rescue. But President Reagan has shown he will not compromise on democracy.

I believe it is important to note the recent developments in Poland. For the past few months, the Polish authorities have publicly defended their first round of political purges. Now they are trying to silence their academic institutions. I am saddened by this most recent attempt at sociological efficiency in Poland at the expense of free minds. I believe only continued economic pressure from the entire free world will force Poland and the Soviet Union to yield to expanded economic, sociological, and educational freedoms.

Mr. President, I ask that the Wall Street Journal editorial "Turning Point?" and the Washington Post article entitled "Polish Official Outlines Plan for Political Purge at Universities" be printed in the RECORD at this point.

The articles follow:

[From the Wall Street Journal, June 23, 1982]

TURNING POINT?

President Reagan's decision to further restrict the use of American equipment and technology in the Siberia-to-Europe gas pipeline suggests a welcome turning point has been reached on the foreign policy front. Somewhere along the line, Mr. Reagan has decided to let Reagan be Reagan.

The pipeline decision is significant for several reasons. It will delay and might even kill a project that would leave our West European allies more vulnerable than ever to political and financial pressures by the Soviets. And it shows that Mr. Reagan can take the heat; many of his top advisers wanted him to pull his punch on the grounds that the pipeline project was already too far along to risk confrontations with our allies.

The impression of a turning point is buttressed by other events of recent days. There was the president's extraordinary three-hour meeting with Prime Minister Begin on Monday, which took place over the hand-wringing advice of aides who still don't seem able to distinguish between friends and foes. Mr. Begin received no blank checks, but Mr. Reagan made it clear he has his eyes fixed firmly on the main ball: the effort to reestablish Lebanon as a secure, independent nation, free of a Soviet-armed PLO army that terrorizes fellow Arabs as well as Israelis. The same aides who sought to undercut the meeting are now calling it one of the most important of the Reagan administration.

And last week the president resisted the usual ritual of telling the U.N. what it wanted to hear and delivered a forthright speech denouncing Soviet aggression. By implication he even accused the U.N. of hypocrisy for self-righteously posturing about disarmament at a time when it refuses to deal seriously with Soviet violations of existing arms treaties on chemical and biological weapons. It was a refreshing change from several decades of presidential apologetics.

In fairness, Mr. Reagan's lieutenants have on occasion been doing their bit. Secretary of State Haig, for example, pierced the usual veil of intelligence community secrecy the other day to disclose Soviet weapons tests that confirm, if any confirming was needed, that the Soviets take seriously the idea of fighting and winning a nuclear war.

The sequence of the Soviet missile test was as revealing as it was chilling: First, a shot into space intended to blind our intelligence satellites, then a rapid firing of ballistic missiles presumably targeted on our retaliatory forces and lastly a barrage of antimissile missiles to destroy any retaliatory forces that survived and were launched in return. Not a scenario that would indicate the Soviet generals have heard about Foreign Minister Gromyko's no-first-use propaganda.

But the pipeline decision went beyond rhetoric. Mr. Reagan knew he would be criticized for it, and he has been. Among other things, the French and Germans are claiming it violates understandings reached at the Versailles summit. U.S. pre-summit negotiators may have given someone cause to believe there was an "understanding," but there is no evidence in the final communique that the president himself gave in on the pipeline deal. And for that matter, understandings that were even more explicit didn't seem to mean much to the French, who shortly afterward made it clear that they don't intend to observe the communique's "limits" on credit to the East Bloc.

The Soviets have been playing a brilliant game in Western Europe. By holding out the lure of juicy contracts and seemingly low-priced gas, they have played one European country off against another and wangled nearly 100% financing at below-market rates for their credit-starved economy. Western European politicians, eager to stave off recession by whatever means possible and protect their own jobs, played along with Moscow, pretending that detente hadn't gone up in flames as a result of Afghanistan and Poland.

But once Moscow had Europe on the hook, it would be back for evermore credit to prop up its failing economy. The debtor would wind up owning the bank—as the case of Poland so vividly shows. For Mr. Reagan to have turned a blind eye to the drift of things would have been to allow the continuation of an already-failed strategy and risk even more serious divisions in the alliance in the future.

So Mr. Reagan was right to blow the whistle on this particular game, since our allies neither could nor would do so themselves. That is what leadership of an alliance is all about. And Mr. Reagan showed that when it comes to decision time, in foreign affairs as well as domestic affairs, he can cut through the fog on important issues and stick to the principles for which he was elected.

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[From the Washington Post, June 23, 1982]

POLISH OFFICIAL OUTLINES PLAN FOR POLITICAL PURGE AT UNIVERSITIES

(By Victoria Pope)

WARSAW.—For the first time since the imposition of martial law, Polish authorities today spelled out a planned purge of the nation's universities that would dismiss teachers on political as well as scholarly grounds.

Poland's minister of science, higher education and technology, Benon Miskiewicz, told journalists that a process of "verification" in the universities would soon begin that would look into the "ethical, moral and sociopolitical attitudes" of university professors.

He stressed that teachers of poor academic standing would be the first to be fired but said university personnel also could face dismissal because of political views. It would be "difficult," he said, for the authorities to tolerate a professor who is against the system.

"There is no place for them," he said.

Miskiewicz's comments marked the first time the government has acknowledged that the mechanism for a political purge of university staff is in place. Special "verification" questionnaires were sent out to the academic community after the imposition of martial law last Dec. 13, and a majority of recipients have now returned the forms, indicating that the review would soon be under way, according to university sources.

The issue of a purge campaign, or "ideological verification," has been the subject of numerous articles in the state-controlled press. But not since the dismissal of the rector of Warsaw University, Henryk Samsonowicz, in mid-April has the government so clearly signaled its wish to cleanse the nation's universities of backers of the independent trade union Solidarity and other activists.

Samsonowicz, a Solidarity supporter who was democratically elected under the liberal university code adopted during the Solidarity era was said to have lost his position in part because he challenged authorities on their right to dismiss outspoken faculty members.

To date, only a purge of journalists has taken place in any organized campaign, but diplomatic observers have long expected the university community—a bastion of opinion makers and intellectual leaders—to be the next target.

Western diplomats in Warsaw said the official announcement today reflected government anxiety over the part university students have played in keeping activism alive in the six months since martial law was declared. The universities were centers of ferment during the 16 months of Solidarity activity and, because of the homogeneity of university life, have remained organized and politically involved.

Alluding to the criteria that the authorities will use to test a professor's worth, Miskiewicz referred to the teacher's role of "shaping youth" and said that, for example, professors who were "against the Polish constitution" would not provide the proper tutelage.

Miskiewicz, the rector of Poznan University until August 1981, said that a curriculum of orthodox Marxism-Leninism in the political sciences would again be compulsory for university students. These requirements were dropped last year under pressure from young Solidarity activists.●

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## BUSINESS PRACTICES AND RECORDS SIMPLIFICATION ACT SUPPORTED BY ROBERT STRAUSS

● Mr. CHAFEE. Mr. President, during the course of the hearings on S. 708, the Business Practices and Records Simplification Act, amending the Foreign Corrupt Practices Act it became clear that there was strong bipartisan support for amending the act. For example, Ambassador Robert Strauss, who held the position of Special Trade

Representative during the Carter administration, submitted a letter to the Banking Committee indicating his support for S. 708. Mr. President, I ask that the letter from Ambassador Strauss be inserted in the RECORD.

The letter follows:

AKIN, GUMP, STRAUSS,
HAUER & FELD,
*Washington, D.C., July 22, 1981.*

Hon. JOHN H. CHAFEE,
*U.S. Senate, Committee on Banking, Housing, and Urban Affairs, Washington, D.C.*

DEAR SENATOR CHAFEE: Thank you for inviting me to testify before the Banking, Housing and Urban Affairs Committee of the Senate regarding S. 708, a bill to amend the Foreign Corrupt Practices Act of 1977. I regret that my absence from Washington makes it impossible for me to appear before the Subcommittee, but I appreciate an opportunity to make a few general comments on S. 708 by this letter.

In my judgment, the Foreign Corrupt Practices Act of 1977 reflected the serious concern of Congress and the American people over the bribery of foreign officials by United States businesses. The thrust of the bill was and is laudable, but the statute created almost as many problems as it solved because of its ambiguities. It seems to me the bill before the Subcommittee would strike an appropriate balance between removing ambiguity from the statute, while preserving the desirable goals of the original Act and maintaining an appropriate enforcement mechansim to deter unlawful payments to foreign officials.

The accounting provisions of the Act, for example, will benefit from several provisions of S. 708. The addition of a materiality standard should ease the understandable anxiety of business persons who feared that inadvertent errors can expose them to liability. Materiality, a familiar concept in securities law, should provide a firmer ground for corporate policymaking regarding books, records and accounts. As I interpret it, S. 708 also allows for a cost-benefit analysis in internal controls of authorization and recording of transactions. This modification significantly diminishes the potentially harsh effect of the current statute, which appears to require absolute accuracy in recordkeeping regardless of cost. Similarly, the reinstatement of the "knowingly" language of the original Senate version of the Act is a reasonable clarification of liability for falsifying records or failing to maintain adequate internal controls. The current statute seemed to impose almost limitless liability on American parent corporations for the conduct of their foreign subsidiaries. S. 708 allows for a conclusive presumption of the company's compliance with the statute upon proof of its good faith effort to police the accounting controls of its subsidiaries. This alteration sets a realistic goal and should encourage corporations to exert meaningful influence over their foreign subsidiaries.

The bill's proposed changes in the Act's anti-bribery provisions make two particularly valuable improvements. First, the ambiguity inherent in the Act's definition of "foreign official" is removed by the elimination of the "ministerial or clerical duties" qualification. S. 708 employs a clear, common-sense definition of "foreign official." Perhaps the most significant portion of S. 708 is proposed section 104. The section prohibits payments whose object is to influence a foreign official "to act or make a decision in his official capacity . . . in violation of the recipient's legal duty as a public servant." In other words, the laws of the recipient's country will govern the lawfulness of the payment. This provision is more realistic and objective than the prohibition in the current Act. The present law can produce the anomalous result of making criminal under U.S. law an act which is neither unethical or unlawful under the practice and laws of a foreign country. By outlining more clearly the limits of proper business conduct abroad, S. 708 should provide better guidance to American companies while maintaining the imperative prohibitions on corrupt business practices.

Finally, the bill would change the current review procedure by safeguarding from disclosure under the Freedom of Information Act the information submitted to the Justice Department for the purpose of securing an opinion regarding compliance. Nor may the information be used for a purpose other than issuing an opinion. These provisions should further the aims of the law by encouraging more companies to use the review procedure, free from the fear of disclosure or further prosecution.

The Foreign Corrupt Practices Act of 1977 was an important achievement, for it demonstrated congressional resolve to eliminate bribery of foreign officials by American businesses. Because I believe that S. 708 would further that goal by clarifying the language of the law and imposing strict yet reasonable prohibitions on corrupt business practices abroad, I support the passage of the bill. I'm sure that with the passing of a few more years we will find that some of the continuing reform undertaken in this legislation will also need review and alteration as you and your colleagues continue in a responsible way to achieve the goals we all desire.

With best regards,

ROBERT S. STRAUSS.●

## CONSCIENCE DAY FOR EL SALVADOR IN CONCORD

● Mr. KENNEDY. Mr. President, on April 25, concerned citizens in Massachusetts met in Concord to hold a Conscience Day for the victims of human and political rights violations in El Salvador. The event was sponsored by Amnesty International and 15 other religious and community organizations, and was attended by over 300 people. Events such as this demonstrate that Americans are aware of the human suffering in El Salvador and are deeply concerned about our Government's policies that support repressive regimes which foster violence and death and violate the rights and freedoms of their citizens. In recognition of the concerns of the particpants, I ask that the Concord Conscience Day statement be printed at this point in the RECORD.

The statement follows:

CONCORD CONSCIENCE DAY STATEMENT

This is a Service of Mourning for the innocent victims of torture, murder and massacre in El Salvador. Here in Concord, the birthplace of American freedom, we can do no less than gather to bear this public witness.

We come from differing religious and ethical backgrounds, but on the issue of violence in El Salvador we speak with one voice of profound indignation.

We affirm human dignity as the fundamental right of every man, woman and child without exception.

We deplore the imprisonment, torture and death visited upon the people of El Salvador.

We oppose violence from all quarters, but especially from governments.

We call upon our government to stop our involvement in violence in El Salvador, and to speak out strongly in favor of every person's right to live in freedom.●

## IDAHO POTATO PEELERS SET RECORD

● Mr. McCLURE. Mr. President, Idaho has always been famous for its potato growing, but now five Idaho men may have set the world's record in potato peeling. The Twin Falls team peeled 500 pounds of potatoes in 30 minutes beating the previous record set in England of 425 pounds in 45 minutes. No fingers were lost in accomplishing this feat, though three men suffered cuts on their hands. This record will be submitted to the Guinness Book of World Records.

I ask that the Times-News article be printed in the RECORD.

The article follows:

TWIN FALLS.—The world record for potato peeling may have been brought to Idaho on Thursday, as a five-man team sliced through 500 pounds of potatoes in 30 minutes.

The existing record, set last year by a team in England, was 425 pounds peeled in 45 minutes. News of the Twin Falls feat will be submitted to the Guinness Book of World Records.

When this attempt to break the record was over, team members found all fingers present and accounted for, though three of them had cuts on their hands.

For the record, potatoes must be peeled with ordinary kitchen knives. When peeled, the spuds must weigh eight ounces or more and must meet "institutional cookery standards."

In assaulting the world record, the peelers took full advantage of this admittedly vague standard.

The potatoes they used were large, so peelers could remove generous amounts of potato along with the peel while still keeping the finished product above the eight-ounce minimum. Large potatoes also meant that fewer potatoes had to be peeled before the record was broken.

Organizers of the potato-peeling team said their research showed no provision in the rules for weighing the peeled product—the record is apparently based only on the starting weight of the potatoes peeled.

Team captain Tim Obenchain of Twin Falls started peeling each potato by making fast cuts at the ends, sometimes cutting off almost a third of the potato. Then he would remove thick slices of potato and peel with lengthwise strokes.

"I knew I should have been a doctor," he said.

"This is a combination of potato peeling and slicing," said team member Blaine Breckon of Nampa.

David Whiteley of Twin Falls, when asked how he prepared for the event, said he did no training. "If you train at all, you overtrain," he said.

Other members of the peeling team were Jack Warberg, and Armour Anderson, both of Twin Falls.

C. L. "Foggie" Fisher of Kimberly worked harder than the peelers as a one-man crew keeping buckets of potatoes filled at the feet of each peeler and collecting the peeled products.

"They told me I'd only have to peel a bucket, but they kept filling it up," Breckon said during the peeling.

The peelers were all Rotary Club members and their record attempt was the first event of their district convention, which will be held in Twin Falls through Saturday.

The peeled potatoes were given to the Canyon Springs Inn, the site of the record attempt. Where they will be turned into mashed potatoes.●

## PRELIMINARY NOTIFICATION OF PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress received advance notification of proposed arms sales under that act in excess of $50 million, or in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

Pursuant to an informal understanding, the Department of Defense has agreed to provide the committee with a preliminary notification 20 days before transmittal of the official notification. The official notification will be printed in the RECORD in accordance with previous practice.

I wish to inform Members of the Senate that two such notifications have been received.

Interested Senators may inquire as to the details of these preliminary notifications at the office of the Committee on Foreign Relations, room 4229, Dirksen Building.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., June 21, 1982.*
In reply refer to: I-01804/82ct.

Dr. HANS BINNENDIJK,
*Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a Southeast Asian country for major defense equipment tentatively estimated to cost in excess of $14 million.

Sincerely,

WALTER B. LIGON,
*Acting Director.*

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DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., June 21, 1982.*
In reply refer to: I-01599/82ct.

Dr. HANS BINNENDIJK,
*Professional Staff Member, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR DR. BINNENDIJK: By letter dated 18 February 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to an East Asian country tentatively estimated to cost in excess of $50 million.

Sincerely,

WALTER B. LIGON,
*Acting Director.*●

## PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD at this point the notification which has been received. The classified annex referred to in the covering letter is available to Senators in the office of the Foreign Relations Committee, 4229 of the Dirksen Building.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
*Washington, D.C., June 21, 1982.*
In reply refer to: I-02309/82ct.

Hon. CHARLES H. PERCY,
*Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-69 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter of Offer to the United Kingdom for defense articles and services estimated to cost $48 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

WALTER B. LIGON,
*Acting Director.*

TRANSMITTED NO. 82-69

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: United Kingdom.

(ii) Total estimated value:

| | Million |
|---|---|
| Major defense equipment [1] | $28 |
| Other | 20 |
| Total | 48 |

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Three Vulcan-Phalanx MK 15 MOD 2 Close-In Weapon Systems with 60,000 rounds of ammunition and logistical support.

(iv) Military department: Navy (LCK).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 Report: Case not included in section 28 report.

(viii) Date report delivered to Congress: 21 June 1982.

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POLICY JUSTIFICATION

UNITED KINGDOM—VULCAN-PHALANX CLOSE-IN WEAPON SYSTEMS

The Government of the United Kingdom has requested the purchase of three Vulcan-Phalanx MK 15 MOD 2 Close-In Weapon Systems (CIWS) with 60,000 rounds of ammunition and logistical support at an estimated cost of $48 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of the United Kingdom; furthering NATO rationalization, standardization, and interoperability; and enhancing the defenses of the Western Alliance.

This is a follow-on to a previous sale of one CIWS system to the UK at an MDE cost of $9.4 million. These three additional CIWS systems would significantly enhance the close-in AAW capability of UK ships. The UK has the military assets to utilize these systems effectively.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the General Dynamics Corporation of Pomona, California.

A total of four personnel (three USG and one contractor representative) will be required in the United Kingdom during the installation of these systems. Installation of the requested material is projected to occur during the July-September 1982 time frame.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

## TRIBUTE TO DR. ROBERT J. KIBBEE

● Mr. MOYNIHAN. Mr. President, it is with deep sadness and a sense of great personal loss that I rise today to pay tribute to Dr. Robert J. Kibbee, who passed away in New York City last week.

Dr. Kibbee served as chancellor of the City University of New York for over a decade, having assumed that

post in 1971. Under his leadership, City University overcame significant obstacles, many of them financial, and although required to abandon its free tuition policy, maintained its commitment to insuring that those desiring access to higher education would have such an opportunity.

Dr. Kibbee was born on Staten Island. He attended Xavier High School in Manhattan and received his bachelor's degree at Fordham University. Dr. Kibbee served in the Armed Forces. He received his master's doctoral degrees from the University of Chicago. Dr. Kibbee's entire career was devoted to higher education. He held a variety of administrative positions at institutions of higher education across the country, and served as an educational adviser in Pakistan, where he helped redesign that country's education system.

Perhaps the best tribute to Dr. Kibbee's tenure as chancellor of the City University of New York, is the fact that thousands of New York City residents were able, largely due to the efforts and spirit of Dr. Kibbee, to avail themselves of the opportunity to pursue higher education. His death is a loss not only to the university, the city of New York, and the State, but to higher education.

Mr wife Elizabeth and I extend our deepest sympathy to his wife, Margaret, and his three children, Robert Jr., Douglas, and Katherine.

Mr. President I ask that a recent New York Times article about Dr. Kibbee appear in the RECORD following my remarks.

The article follows:

ROBERT J. KIBBEE, CHANCELLOR OF CITY UNIVERSITY FOR MORE THAN A DECADE, DIES AT 60

(By Gene I. Maeroff)

Dr. Robert J. Kibbee, the chancellor of the City University of New York, died at his home in Manhattan Wednesday night at the age of 60. His death, after a long illness, came two weeks before he was to retire from the post he had held for more than a decade.

The university's trustees had been scheduled to choose his successor within the next few days.

Dr. Kibbee's tenure as chancellor of the country's third largest university coincided with one of the most painful eras of the institution, which was set up in 1961 through the amalgamation of the New York City's various publicly supported colleges.

The second year of the policy of open admissions, under which the City University admitted all city high school graduates who applied, was beginning when he took over the leadership in 1971 from Dr. Albert H. Bowker, who became chancellor of the University of California at Berkeley.

DEFENDED OPEN ADMISSIONS

Dr. Kibbee, who had acquired most of his experience at selective private institutions, repeatedly had to defend the City University from critics. They charged that the university's academic quality was being diluted to absorb thousands of inadequately prepared freshmen in an institution that had maintained rigorous entrance requirements.

"Over the years, we have come to identify quality in a college not by whom it serves but by how many students it excludes," he said recently in defense of open admissions. "Let us not be a sacred priesthood protecting the temple, but rather the fulfillers of dreams."

Dr. Kibbee remained cool during the many crises that followed.

DOING "THE BEST YOU CAN"

"You start from the point that you think you know what you are trying to do," he said. "You do the best you can and recognize that everything is not going to happen the way you want it to happen. There is always tomorrow, and you shouldn't look on every setback as a disaster."

The 1970's proved to be a difficult decade for all of American higher education, and Dr. Kibbee had to guide the City University through financial difficulties. He frequently was called upon to arbitrate conflicts over budget reductions.

A 10 percent reduction in the institution's $550 million budget during the 1975-76 academic year set the stage for a lengthy drama. Several campuses of the 20-unit system were threatened with extinction, the institution's suppliers were not paid and the entire university finally closed for two weeks in May, just as final examinations were approaching.

RENEGING ON A COMMITMENT

To Dr. Kibbee, the worst part of the crisis was having to dismiss more than 1,000 faculty members who had been awarded new contracts six months earlier.

"We had a commitment to them and then we reneged," he said several years later. "It just wasn't fair, but the financial problem didn't allow any other solution."

The price of getting the university reopened was the abandonment of its free-tuition policy. Dr. Kibbee successfully resisted proposals for a takeover by the State University of New York and did not shy away from political infighting when he thought it necessary.

"He never wavered from his great and passionate commitment that insuring access to a higher education is a social and economic imperative of our society," Governor Carey said yesterday.

During the middle and late 1970's, Dr. Kibbee found himself increasingly honing skills more characteristic of a politician than of a scholar.

He was confronted by a Board of Higher Education whose members often appeared to subordinate academic needs to political considerations, and he found the appointment of presidents for the university's various campuses to be a matter of keen interest to elected officeholders.

In April 1981, Dr. Kibbee announced that he would retire from the chancellorship in June 1982, giving the trustees 14 months to find his successor. Although he had undergone cranial surgery several months earlier, he said his health was not a factor in his decision.

"I'm not as active and agile as when I came here, but I'm 10 years older," he said.

MORE THAN JUST ACADEMICS

Dr. Kibbee was a pragmatist who resisted efforts to cast his role as chancellor in philosophical terms.

"It's always nice to think of yourself as the academic chieftain of an intellectually oriented body," he said. "But it costs money and takes buildings and equipment to have a university. This is the responsibility of the chief executive, and if you're not willing to accept it, then you should stay out of this business."

Opponents were often bemused and frustrated by his seemingly bland approach. The only signals that Dr. Kibbee, a rumpled six-footer, ever seemed to give of his perturbance were a few extra puffs on his omnipresent pipe.

Even when his independence provoked both the Governor and the Mayor to seek his ouster, Dr. Kibbee remained taciturn, accepting criticism in silence or, at most, delivering a dry witticism, his

"If you can live long enough, you will outlast your critics," he said.

A lack of effusiveness, however, did not mean Dr. Kibbee was insensitive. He held fierce loyalties, was quick to voice compassion and was always among the first to commiserate with colleagues with personal problems.

Dr. Kibbee's background may have helped develop empathy.

He was born on Aug. 19, 1921, on Staten Island, and his parents separated when he was a small boy. He carried both the blessing and the burden of growing up as the son of a famous father, Guy Kibbee, the actor.

SERVED IN ANTIAIRCRAFT UNIT

His mother moved the family to Manhattan's West Side. He attended Xavier High School and earned a bachelor's degree at Fordham University, where the show-business connections through his father won him a reputation for being able to get his friends into concerts by the popular big bands.

He entered the Army after his graduation from Fordham in 1943 and was serving in an antiaircraft unit in the Philippines when World War II ended.

After his discharge, Dr. Kibbee attended the University of Chicago, getting a master's degree in 1947 in educational administration. His involvement in a long study of higher education in Arkansas led to an appointment as a dean at Southern State College there.

In 1955, he moved to Drake University in Iowa as dean of students. He also resumed his studies at the University of Chicago, earning a doctorate in higher educational administration in 1957.

BECAME ADVISER IN PAKISTAN

Dr. Kibbee left Drake the following year to represent the University of Chicago as an educational adviser in Pakistan. The job expanded to a three-year assignment and included membership on a committee that redesigned that country's educational system.

He returned to the United States in 1961, joining the Carnegie Institute of Technology in Pittsburgh as assistant to the president, John C. Warner, whom he had known as one of the other consultants in Pakistan. In 1965, Dr. Kibbee was promoted to vice president and continued in a similar position after a merger that created Carnegie-Mellon University.

Dr. Kibbee was a surprise choice to head the City University, an institution unlike any he had been associated with previously.

Despite the public exposure in the $69,100-a-year position, he maintained a private personal life, and few of those who worked closely with him were aware of his interest in the ballet or his enjoyment of an occasional round of golf.

Dr. Kibbee took the initiative on one of the few occasions that his personal life became public. In 1973, he sent letters to

each campus president in the City University and to the members of the Board of Higher Education, telling of his separation from his wife, the former Katherine Kirk.

He remarried in the spring of 1980, to Margaret Rockwitz, a faculty member at Kingsborough Community College in Brooklyn.

The marriage took place while Dr. Kibbee was convalescing from surgery. He returned to work that spring, but a year later still looked drawn and never seemed to regain his former vigor.

In a commencement address last week, Dr. Kibbee counseled the graduating class at Brooklyn College to be humble and compassionate and to "temper your judgments to the limit of your knowledge."

He did not appear at the ceremonies because of his declining health, and his address was read to the 2,900 graduates by Jerald Posman, a vice chancellor.

Dr. Kibbee, stressing to the graduates that the only advantage he had over them was longevity, said that "what I have learned by living is that there is too much arrogance, simplemindedness and indifference in the world."

In addition to his wife, Dr. Kibbee is survived by two sons, Robert Jr. of Ithaca, N.Y., and Douglas of Bowling Green, Ky., and a daughter, Katherine Paterson of London.

Viewing hours will be today from 10 A.M. to 9 P.M. and tomorrow from 9 to 11:30 A.M. at the Frank E. Campbell Funeral Chapel, Madison Avenue and 81st Street. There will be a funeral mass tomorrow at 1 P.M. at St. Ignatius Loyola Roman Catholic Church, Park Avenue and 84th Street.●

## THE DAIRY STABILIZATION ACT

● Mr. BOREN. Mr. President, on May 27, I joined nine other Senators in sponsoring S. 2587, the Dairy Stabilization Act.

The Dairy Stabilization Act was developed with the unified support of our Nation's dairy farmers, working through the National Milk Producers Federation. It represents a sound plan to bring U.S. dairy production back into balance with consumption.

The most attractive part of this proposal is that it would reduce the Government's responsibility for operating the dairy program. In fiscal year 1983, this proposal would result in a savings of $1.3 billion.

Yesterday, I voted against the conference committee report on the budget because I believe it did not reduce deficits enough. In order to reduce the deficit and move toward a balanced budget, all programs must meet strict budgetary scrutiny. At the same time, we must keep intact those programs which are vital to the well-being of the Nation. Such a program is the dairy program. Granted, this program has gotten out-of-hand in the past few years, and it is now necessary to revise the program in a way that will more properly balance supply with demand. In doing so, we are all aware that we must decrease Federal Government expenditures in the dairy program.

The Dairy Stabilization Act provides us with an opportunity to accomplish these goals. Through enactment of this legislation, we will reduce Federal Government expenditures in fiscal year 1983 by $1.3 billion. Further, it limits Government spending to $792 million in fiscal year 1983 in this program and provides that the dairy farmers themselves must finance everything above that amount.

This legislation gives dairymen a positive incentive to reduce production for reduction in milk marketings below year-earlier levels. It also would retain a reasonable basis for planning and minimum price insurance our dairy farm families need to stay in business. If enacted, this legislation would guarantee that the future dairy needs of American consumers will be met at reasonable prices.

A very important aspect of this proposal is the two-tier pricing system which gives dairy farmers the supported price on milk for which there is commercial demand and a much lower price on surplus milk. This will give our dairy farmers the incentive to not "overproduce," and, as we all know, overproduction—surplus—is the reason we are in the present situation. This system will not penalize the farmers who reduce their production; rather, it will penalize only those who increase their production.

The administration's proposal, the Emergency Dairy Adjustment Act, S. 2533, centers on a cut in the Government support level for milk as a solution. The Dairy Stabilization Act is preferable legislation.

The administration's proposal is punishment that would serve no constructive purpose. A straight price cut in the short-run would only make current milk surpluses worse by forcing many dairymen to increase production to counter cash-flow pressures. Over the long run, the administration's proposal would jeopardize America's milk productive capacity by forcing to many dairy families out of business. This, in turn, would not assure that the dairy needs of our consumers would be met.

The Dairy Stabilization Act will meet the demands and goals; in particular, this proposal will cost the Government $408 million less in fiscal year 1983 than the administration's proposal, using the administration's own cost estimates. Our proposal will also provide the most expedient solution to the problem we face. Even Secretary Block admitted this when, in reference to the Dairy Stabilization Act, he said, "I would admit that the program you have recommended provides for the quickest correction to the problem that exists. There is absolutely no question about it."

I would urge all of my colleagues to carefully review the various dairy proposals and would hope that all my colleagues would join in this effort to provide a quick, equitable solution to the problem of dairy surpluses and the excessive costs of the dairy program.●

## REGIONALIZATION OF THE STRATEGIC PETROLEUM RESERVE

● Mr. D'AMATO. Mr. President, on May 26, 1982, the Senate adopted my amendment to S. 2332, cosponsored by Senators HAWKINS, MURKOWSKI, and PERCY, which would require, no later than December 31, 1982, a comprehensive study of the need for establishing a regional petroleum reserve pursuant to section 157 of the Energy Policy and Conservation Act.

I strongly believe that it is in the interest of our Nation's energy security that there be regional reserve locations in those areas of the country most dependent on imported oil. Clearly, New York and the rest of the Northeast relies on imported oil for its energy needs to a greater extent than any other area in the United States.

A new report by the Congressional Research Service illustrates the vulnerability of the east coast to an oil shortage. The study asserts that:

Given the critical dependence of PADD I—Petroleum Administration for Defense District which includes Rhode Island, Maine, Massachusetts, Vermont, New Hampshire, Connecticut, New York, Pennsylvania, New Jersey, Maryland, District of Columbia, Delaware, West Virginia, North Carolina, South Carolina, Georgia, and Florida—upon outside sources of supply, it would appear that there remains a notable case to be made for regional storage in PADD I—or more aggressive anticipatory preparedness policies undertaken by the industrial sector and other private sector oil consumers likely to be adversely affected during a significant shortage.

This study is a timely one, and I ask that it appear in the RECORD.

The study follows:

REGIONALIZATION OF THE STRATEGIC PETROLEUM RESERVE: HISTORY, GENERAL OBSERVATIONS AND ANALYSIS OF PADD I VULNERABILITY

SUMMARY

The Energy Security Act (Public Law 96-294) established a minimum fill rate for the Strategic Petroleum Reserve (SPR) of 100,000 b/d, which must be administered by the Department of Energy independent of crude oil prices or market conditions. Later enactments, notably the Omnibus Budget Reconcilation Act of 1981 (Public Law 97-35) required the Administration to "seek" to fill the SPR at a rate of 300,000 b/d, but allowed the Administration some latitude in its procurement policy.

In the fiscal year 1983 budget, the Administration has proposed a deferral in the projected expansion of the SPR which implies a fill rate during the next several fiscal years roughly half that of the 300,000 b/d directive in Public Law 97-35. Consequently, Congress is weighing the establishment of a higher, unconditional minimum fill rate for the SPR. The fill rates proposed in recent House and Senate legislation would necessi-

tate the purchase or lease of interim storage facilities because the rates would exhaust available permanent storage. The prospect of securing interim storage, which would not necessarily be based in the Gulf Region where permanent SPR storage facilities are located, has renewed interest in regionalization of the SPR.

In March 1978, the Department of Energy had recommended establishment of a Regional Petroleum Reserve (RPR) for the East Coast, but the suspension of SPR fill during 1979 and most of 1980 deferred study and development of an RPR program. An examination of crude and petroleum product flow into the East Coast suggests that the Eastern coastal states (PADD I) might continue to be particularly vulnerable during shortages.

However, the Administration does not appear to be disposed to accelerate construction of permanent Gulf Coast facilities—or to support regionalization of the SPR—arguing that the effect of additional outlays on the budget outweighs the national security advantages of accelerating SPR fill by a couple of years. This, coupled with the Administration's blunt message that the private sector should assume a share of the cost and responsibility for energy emergency preparedness, suggest that regionalization of the SPR would, for the foreseeable future, require a Congressional initiative.

INTRODUCTION

On May 26, 1982, the Senate passed S. 2332, a vehicle intended initially to provide for the extension of international energy program authorities, but which included further provisions pertaining to Federal energy emergency preparedness and the Strategic Petroleum Reserve (SPR). One amendment adopted on the floor of the Senate would require, no later than December 31, 1982: "A comprehensive study of the need for establishing a Regional Petroleum Reserve pursuant to section 157 of the Energy Policy and Conservation Act. Such study shall examine the economic benefits and costs of such a Reserve at various potential locations."

Regionalization of the SPR is hardly a new concept. The Energy Policy and Conservation Act (Public Law 94-163), which created the Reserve, required that the SPR Plan provide for establishment and maintenance of a Regional Petroleum Reserve in, or in ready access to Federal Energy Administration (FEA) regions that imported 20 percent or more of its refined product during the 24-month period prior to the computation.[1] The law also states that the SPR should be designed to assure that "to the maximum extent practicable, that each noncontiguous area of the United States which does not have overland access to domestic crude oil production has its component of the [SPR] within its respective territory."[2]

The Federal Energy Administration found in its calculations that FEA regions 1 through 4 were sufficiently dependent upon product imports to meet the criteria for establishment of a Regional Petroleum Reserve. As is shown by the map on the next page, FEA regions 1-4 essentially encompass the East Coast, closely approximating what is also termed as Petroleum Administration for Defense District (PADD) I.

Nonetheless, FEA concluded that establishment of a Regional Petroleum Reserve to service FEA regions 1-4 and noncontiguous areas of the country was not necessary at that time. The agency argued: "Storage of crude oil in large centralized facilities in the Gulf Coast would provide a Reserve that would be readily accessible to regions 1 through 4, and would effectively meet the crude oil, residual oil and refined product needs of those Regions as well as all other Regions of the country. . .without delaying or otherwise adversely affecting fulfillment of the purpose of the [Regional Petroleum Reserve]. FEA has also determined that it would not be practicable or necessary to store a portion of the Reserve in the noncontiguous areas of the country. Storage of crude oil in centralized facilities in the Gulf Coast area would permit ready and nondiscriminatory protection for the noncontiguous areas."[3]

These conclusions did not violate the letter of the law. The language in EPCA provided for regionalization of the Reserve in noncontiguous areas "to the maximum extent practicable," and that substitution might be made for volumes in the RPR if necessary for "economy, efficiency, or for other reasons," and if it would not frustrate the objectives of the RPR.[4]

Subsequently, in March 1978, the SPR plan was amended to provide for product storage for the East Coast. The Department of Energy described the FEA's earlier conclusions as "still essentially valid," but noted that "some desirable additional flexibility can be provided by product storage." This was because DOE had observed that the industrial sector did not necessarily maintain adequate levels of stocks in reserve, and was uncertain that refineries in the Carribean could provide adequate supplies of residual oil in a timely fashion.[5]

The Plan amendment was intended to provide for storage of 20 million barrels of residual fuel oil. Potential sites had been identified along the East Coast of Canada and along the Gulf Coast, to be subject to further study and discussions with the Canadian Government. These sites were to be low-cost underground facilities, estimated to be no more costly than the salt cavern facilities used for the SPR itself.[6] This last finding—namely, that it would not be significantly more expensive to create regional storage—seemed key to the Department's support for creating regional product storage. The agency noted: "Because the SPR is an insurance program against interruption risks, it is appropriate to buy some protection against these uncertainties and risks, if such insurance can be purchased at approximately the same cost as storage of crude oil in Gulf Coast salt domes. A 20 MMB product reserve would be able to respond to a number of potential problems. . . ."[7]

In the 1980 Annual Report, DOE reported that plans for regionalization of the Reserve had been expanded to include Hawaii (2.3 million barrels of crude and 700,000 barrels of kerosene) and Puerto Rico (800,000 barrels of crude and 500,000 barrels of unfinished naptha). The agency indicated that regionalization would be "contingent" upon availability of funding from the Windfall Profits Tax, and that an amendment to the SPR Plan would be submitted to Congress after the proposed tax were enacted.[8] President Carter suspended purchases for the Reserve in November 1978, citing difficulty of securing supply in the wake of the Iranian revolution, and in some hope that any move to ease demand in spot markets would moderate the spiraling effect on prices. There were modest increases to the SPR after spring 1980 and no further additions after August 1979 until fill was resumed in September 1980 pursuant to the Energy Security Act (Public Law 96-294). The curtailment of fill was accompanied by delays in facilities development, and a decision to defer regionalization. The 1981 Annual Report had nothing to say on regionalization other than: "There has been no formal funding of a specific Regional and Noncontiguous Petroleum Reserve program if fiscal year 1980 or fiscal year 1981 and decisions regarding the Regional and Noncontiguous Petroleum Reserves have been deferred."[9]

There is no allusion to the regionalization program in the 1982 report.[10]

RENEWED INTEREST IN REGIONALIZATION OF THE SPR

On March 24, 1982, the Senate failed to override President Reagan's veto of the proposed Standby Petroleum Allocation Act of 1982 (S. 1503), which would have established new standby contingency price and allocation control authorities. The defeat of that legislation, and Congressional uneasiness over the absence of explicit Federal energy emergency plans, has focused attention on the SPR as the nation's principal bulwark against the effects of a petroleum supply interruption.

In its budget request for fiscal year 1983, the Administration proposed a deferral in development of Phase III storage facilities, effectively postponing completion of a 750 billion barrel reserve until 1990. Projected expansion of the Reserve had implied a fill rate of 189,000 b/d during fiscal year 1982-89; with the proposed deferral, the fill rate has been projected by the General Accounting Office to average closer to 168,000 b/d during fiscal year 1982-90.[11]

[1] Even though the Federal Energy Administration has long since disappeared, EPCA retains the concept of the FEA regions for purposes of the SPR. A map showing the FEA regions appears on page 3 of this report.

[2] Sec. 154(d).

[3] U.S. Congress. House. Strategic Petroleum Reserve Plan. Communication from the Administrator, Federal Energy Administration, transmitting the Strategic Petroleum Reserve Plan, pursuant to Section 154(b) of the Energy Policy and Conservation Act (Public Law 94-163). 95th Congress, 1st session, H. Doc. No. 95-12, p. 96.

[4] EPCA, Sec. 154(d) and Sec. 157(c).

[5] U.S. Department of Energy. Assistant Secretary for Resource Applications. Strategic Petroleum Reserve Office. Expansion of the Strategic Petroleum Reserve: Amendment No. 2, Energy Action DOE No. 1. DOE/RA-0032/2, p. 5-6, 33.

[6] Ibid., p. 33. A resolution (H.J. Res. 355) has been introduced in the 97th Congress by Rep. St Germain which would direct the Secretaries of State and Energy to begin discussions with Canadian officials on establishing a joint strategic petroleum reserve. Comment has been requested of DOE, DOD and the State Department.

[7] Ibid., p. 38.

[8] U.S. Department of Energy. Assistant Secretary for Resource Applications. Deputy Assistant Secretary for Strategic Petroleum Reserve. Strategic Petroleum Reserve: Annual Report. February 16, 1980: p. 43.

[9] U.S. Department of Energy. Strategic Petroleum Reserve: Annual Report. February 16, 1981: p. 16.

[10] U.S. Department of Energy. Strategic Petroleum Reserve: Annual Report. February 16, 1982.

[11] U.S. Congress. Senate. Committee on Energy and Natural Resources. Report together with additional and minority views to accompany S. 2332. S. Rept. No. 97-393: p. 14.

The implied rate of expansion and fill rate of the SPR has seemed inadequate to some Members of Congress because of (1) the relative stability in oil markets at present of both price and supply; (2) the likelihood that the prevailing stability may be conditional and not necessarily a trend to be presumed upon; (3) the importance of the SPR in U.S. energy emergency preparedness policy in the absence of broader, explicitly articulate preparedness plans; and (4) the administration's seeming non-urgency in the face of legislative directives indicating the preference of the Congress for a more agressive fill of the Reserve.[12]

The Energy Security Act (Public Law 96-294), enacted in June 1980, had established an unconditional minimum fill rate for the Reserve of 100,000 b/d. In the Department of Interior and Related Agencies Appropriations (Public Law 96-514), enacted in December 1980, Congress required the President to "seek to fill" the Reserve at 300,000 b/d to fully utilize appropriated funds, subject to price and market factors. The Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35) specifically amended the SPR enabling legislation (EPCA, Public Law 94-163) to incorporate the 300,000 b/d target. That language required the President to "immediately seek to undertake and thereafter continue . . . crude oil acquisition, transportation, and injection activities . . . at an average annual rate of at least 300,000 barrels per day."

Congress is presently considering legislation which would dispense with the latitude afforded by the language enacted in Public Law 97-35. A Senate bill, S. 2332, passed on May 26, 1981 (88-7), would require the President to "immediately undertake, and thereafter continue . . . activities at a level sufficient to assure that" petroleum acquired for permanent or interim SPR storage average 300,000 b/d until the Reserve reaches 500 million barrels; thereafter, the Administration could exercise the same discretion allowed by Public Law 97-35 in filling the last third of the Reserve's planned 750 million barrel capacity. A bill being considered in the House, H.R. 6337, would raise the unconditional minimum fill rate to 200,000 b/d until the Reserve reached 500 million barrels.[13]

Both these bills would require a fill rate that would outstrip projected additions to permanent SPR capacity, and imply the need to secure interim storage, whether in the form of auxiliary tanker storage or inland capacity. Both House and Senate proposals authorize expenditures from the off-budget SPR account for acquisition of interim storage facilities. Estimates of the volume of interim storage capacity and its costs vary. The Administration has supported the House proposal, arguing that the additional outlays and budgetary impact of the Senate proposal dwarf national security arguments for accelerating achievement of a 500 million barrel Reserve by 1984 rather than 1986.[14] Estimates of the costs of tanker storage have varied widely, ranging between $1.20-$3.00 bbl/yr. Depending upon market conditions, outright purchase of tankers might entail the least outlay of funds. In a July 1981 internal document, the Department of Energy concluded that above-ground steel tanks were the most costly means of accelerating SPR expansion in "real dollar costs," but that if one assumes accelerating acquisition costs, above-ground interim storage could be less expensive than expansion or creation of new solution-mined sites, and by permitting speedier fill, would—independent of cost considerations—enhance the national security value of the Reserve at an earlier date.

The prospect of having to secure interim storage which would not necessarily be based in the Gulf Region where the permanent SPR storage facilities are located has renewed interest in regionalization of the SPR. If it should be necessary to purchase or lease interim or auxiliary facilities, are there distinct advantages to basing these facilities in one location in preference to another?

### THE CASE OF PADD I [15]

Congressional testimony continues to convey concern that the East and West Coasts may bear disproportionate burdens during shortages because the SPR is not connected to all regions by direct pipeline, and crude and product supplies are not maintained close to the refineries or markets of some areas.[16] Others continue to perceive, as did the Department of Energy in 1978, a need for regional storage for the East Coast, which, in contrast to the West Coast, has little indigenous production and is highly dependent upon imports to satisfy demand.[17]

Existing and projected sites for Strategic Petroleum Reserve facilities and terminals are located along the Gulf Coast, in Texas, Lousiana and Mississippi where there is a concentration of refining capacity, crude and product pipelines. Along the West Coast, there are concentrations of refining capacity in and near to San Francisco and Los Angeles, and in the south central portion of California. Major crude pipelines in California run North-South roughly 75 miles inland, but originate at the San Francisco Bay. There are other crude pipelines originating from the Coast, one near San Luis Obispo, and others at Oxnard (approximately 60 miles up the coast from Los Angeles) as well as in the vicinity of Los Angeles-Long Beach.[18]

Refining capacity is also concentrated in Puget Sound in Washington State which services Alaskan and imported crudes. Construction of the Northern Tier pipeline, stalled pending the outcome of litigation in progress, which would originate from Puget Sound, would open additional possibilities, either enhancing the appeal of an auxiliary SPR in the Pacific Northwest, or making possible creation of an above-ground reserve in the Williston Basin in North Dakota. In contrast, the East Coast offers few options as the only significant concentration of refineries and product pipelines is off the Delaware Bay, with a lesser group in the northern New Jersey area.

In the absence of an operational Northern Tier pipeline, it would seem of greater utility to create a regional Reserve to service the East Coast than it would the West Coast. Statistics on the flow of oil into and from the two coasts compiled by the Department of Energy suggest why this might be so. The accompanying table summarizes monthly data for calendar year 1981 for PADD I, essentially the East Coast, and PADD V, essentially the West Coast.[19]

The table does not provide a barrel-for-barrel accounting; indeed, DOE tables often include a category of "unaccounted for" oil in order to balance oil flow statistics. But the figures do portray a picture, and reveal that PADD V has significantly less crude imports than PADD I, and has a significant volume of indigenous production. Some petroleum, virtually all crude, moves from PADD V via the Panama Canal to PADDs I and III. Meanwhile, PADD I is far more dependent upon crude and product imports, and receives a significant volume of product from PADD III, and a little from PADD II.[20] Given the critical dependence of PADD I upon outside sources of supply, it would appear that there remains a notable case to be made for regional storage in PADD I—or more aggressive anticipatory preparedness policies undertaken by the industrial sector and other private sector oil consumers likely to be adversely affected during a significant shortage. Absent construction of the Northern Tier Pipeline, the West Coast, because of its production capacity, does not appear to require a Regional Petroleum Reserve.

### PROSPECTS FOR REGIONALIZATION

The Administration has not advocated regionalization of the SPR, and would presumably accelerate construction of Gulf Coast SPR facilities before it would support construction or lease of permanent or interim facilities elsewhere in the Nation. The Administration proposes to do neither, and as has already been noted, has proposed deferring completion of a 750 million barrel reserve, previously projected for fiscal year 1989, to fiscal year 1990.

The regionalization issue captures all the dynamics of past emergency preparedness policy debates. At hearings held before the Senate Energy and Natural Resources Committee on May 6, 1982, DOE Assistant Secretary William Vaughn testified that the Administration's current SPR policy is "sound, particularly in light of the constraints in

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[12] See debate on S. 2332: U.S. Congress. Congressional Record, daily edition, Vol. 128, No. 66. Wednesday, May 29, 1982: p. S6046-81; S6095-99.

[13] The Senate report on S. 2332 is cited in full on the previous page. See also: U.S. Congress. House. Committee on Energy and Commerce. National Energy Emergency Preparedness Act of 1982. Report to accompany H.R. 6337. H. Rept. No. 97-585, Part I: p. 7.

[14] For detailed discussions, analysis and estimates of the costs of interim storage, see (1) the committee reports cited above; (2) U.S. Library of Congress. Congressional Research Service. The Feasibility of Using Tankers as Interim Strategic Petroleum Storage. Kaufman, Alvin. Bamberger, Robert. Bowen, Alva M., Jr. Nelson, Karen K. May 28, 1982. 18 p; (3) Strategic Petroleum Reserve Office. Strategic Planning and Analysis Division. Strategic Petroleum Reserve Acceleration: Report to the Secretary. July 1981: p. III-3.

[15] Portions of the following section are adapted from: Kaufman, et al., op. cit., p. 14-18.

[16] Testimony of the Saltville Underground Storage Company before the Senate Committee on Energy and Mineral Resources, March 25, 1982.

[17] See, for example, the prepared testimony of the Independent Fuel Terminal Operators Association for the hearing cited above: p. 4-5.

[18] A number of helpful maps showing where crude and product pipelines, refineries and other facilities are to be found appear in: International Petroleum Encyclopedia: 1981. PennWell Publishing Co., Tulsa, Oklahoma, 1981.

[19] PADD I consist of Rhode Island, Maine, Massachusetts, Vermont, New Hampshire, Connecticut, New York, Pennsylvania, New Jersey, Maryland, District of Columbia, Delaware, West Virginia, Virginia, North Carolina, South Carolina, Georgia and Florida. PADD V consists of Arizona, Nevada, Washington, Oregon, California, Alaska and Hawaii.

[20] The table does not show the breakdown of crude and product movements between specific PADDs, but this data, too, is available in the Monthly Petroleum Statement (DOE/EIA 0109), published for 1981 by the Energy Information Administration and recently superseded by the Petroleum Supply Monthly (DOE/EIA 0109).

the President's budget and permanent storage limitations."

Regionalization of the SPR is not unlike shopping for insurance. Insurance is costly, and how much coverage one is willing to purchase depends upon the likelihood and severity of perceived catastrophe, balanced against one's ability to afford protection. But it also depends upon the extent to which it is presumed that those with greater ability to afford insurance should pay to insure those with less, but presumably some, means to insure themselves. Estimates by CRS of the costs of interim tanker storage to support a 300,000 b/d fill rate until the SPR would reach 750 million barrels vary between $1.2-$2.9 billion.[21] The General Accounting Office (GAO) estimated that the costs of interim storage to maintain a fill rate of 300,000 b/d until the Reserve reached 500 million barrels would range between $700 million and $1.1 billion through fiscal year 1986.[22]

The Administration's message to the private sector has been blunt: that the Government will not bear alone the costs of assuring to private users a reliable or "equitable" source of petroleum supply during severe shortages. One may make a case for the particular vulnerability of the East Coast, but that case may recommend the undertaking of private sector initiatives for building industrial reserves just as it might Federal initiative for a Regional Petroleum Reserve. The Federal Government would be the only body which could sensibly establish and coordinate a shared auxiliary supply, but the Administration appears to believe, if it is indeed worthwhile to have as much petroleum in as many places as possible, that the private sector should be seeking to fill or to create its own decentralized supply, and not wholly rely upon the Federal Government.

If so, it does not seem likely that the Administration will support the cause of regionalization of the Strategic Petroleum Reserve. Formal regionalization of the SPR, as conceived in the authorities enacted in the Energy Policy and Conservation Act would, for the foreseeable future, doubtless require a Congressional initiative.

APPROXIMATE SUPPLY AND DISPOSITION OF PETROLEUM, PADD's I AND V (1981)

[In thousands of barrels]

| 1981 | PADD I | | | | | | | PADD V | | | | | | | Exports [6] |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Crude import | Product import | Net receipts [1] (crude and products) | Field production [2] | Withdrawal from stocks [3] | Implied supply available [4] | Product supplied [5] | Crude import | Product import | Net receipts [1] (crude and products) | Field production [2] | Withdrawal from stocks [3] | Implied supply available [4] | Product supplied [5] | |
| January | 41,634 | 44,565 | 101,670 | 5,724 | 28,172 | 221,765 | 221,544 | 11,315 | 1,058 | −6,527 | 82,031 | −1,213 | 86,664 | 74,528 | 10,731 |
| February | 38,710 | 38,780 | 88,934 | 5,058 | −1,905 | 169,577 | 170,324 | 10,427 | 950 | −6,619 | 74,595 | 6,812 | 86,165 | 67,846 | 7,740 |
| March | 46,576 | 32,212 | 87,054 | 5,285 | 972 | 172,099 | 166,962 | 5,865 | 1,032 | −6,191 | 82,557 | 580 | 83,843 | 70,877 | 11,466 |
| April | 38,223 | 26,100 | 75,292 | 5,074 | 795 | 145,484 | 142,687 | 8,929 | 1,439 | −9,471 | 79,868 | 579 | 81,344 | 68,498 | 10,377 |
| May | 31,911 | 29,809 | 82,181 | 4,984 | −4,214 | 144,671 | 143,592 | 7,891 | 2,989 | −9,044 | 82,918 | 2,022 | 86,776 | 71,203 | 11,349 |
| June | 33,603 | 25,914 | 77,882 | 4,823 | 5,379 | 147,601 | 144,434 | 11,543 | 2,934 | −7,714 | 82,319 | −6,545 | 82,537 | 75,955 | 5,738 |
| July | 37,771 | 30,855 | 76,335 | 4,651 | 2,013 | 151,625 | 149,458 | 9,911 | 2,170 | −5,239 | 84,209 | 3 | 91,054 | 76,530 | 9,788 |
| August | 37,926 | 29,361 | 70,609 | 4,272 | −6,459 | 135,709 | 138,266 | 8,985 | 2,603 | −3,577 | 84,182 | 3,640 | 95,833 | 78,663 | 8,865 |
| September | 37,523 | 30,452 | 82,956 | 4,463 | −14,059 | 141,335 | 140,499 | 10,408 | 3,157 | −10,675 | 81,797 | 1,876 | 86,563 | 71,548 | 10,573 |
| October | 35,584 | 28,502 | 83,040 | 4,515 | −5,718 | 145,923 | 152,026 | 9,869 | 2,278 | −10,580 | 84,187 | 294 | 86,048 | 76,446 | 9,965 |
| November | 31,153 | 30,609 | 80,178 | 4,420 | −4,956 | 141,404 | 149,959 | 6,487 | 1,817 | −9,978 | 81,947 | −2,401 | 77,872 | 70,664 | 11,865 |
| December | 34,777 | 33,893 | 90,913 | 4,455 | 13,393 | 177,431 | 183,665 | 7,253 | 2,486 | −12,349 | 85,003 | −2,171 | 80,222 | 72,010 | 9,309 |

[1] Net receipts represents the net movements of crude oil and petroleum products by pipeline, tanker, and barge into, and out of each PADD district. Interdistrict movements of crude by tanker and barge are reflected in these numbers. interdistrict movements of crude by pipeline are not recorded and are generally captured in a statistical category called "Unaccounted for crude oil" which is not included here.

[2] Includes crude oil produced on leases, natural gas liquids production at natural gas processing plants and new supply of other hydrocarbons and alcohol.

[3] Withdrawals are shown by a "plus" sign and additions to stocks are designated by a "minus" sign.

[4] This figure is an approximation of available supply, and included as a convenience to demonstrate the rough balance between supply from the sources identified in the chart, and product supplied (implied consumption).

[5] Product supplied equals field production plus refinery production plus imports (plus stock withdrawals or minus stock additions) plus crude oil used directly plus net receipts minus refinery inputs minus exports.

[6] Exports of crude oil are prohibited under normal circumstances. Some crude oil is shipped to Canada in exchange on a barrel-per-barrel basis (principally from PADD II). Shipments of crude to Puerto Rico and the Virgin Islands are not prohibited because these territories are U.S. possessions. Most of the imports from PADD V fall into this latter category, and are included in the table to show a better balance between products supplied and implied supply available. Exports from PADD I are insignificant.

Source: U.S. Department of Energy, Energy Information Administration. Monthly Petroleum Statement (DOE/EIA-0109), June to December 1981, table 24. Data for months January to June all appear in the June 1981 issue. The Monthly Petroleum Statement has been superseded by the new Petroleum Supply Monthly in which PADD-specific data appears in Detailed Statistics, tables 5-10. Some of the data has been combined and some categories omitted as inessential to this analysis. ●

## THE SUPREME COURT'S ILLEGAL ALIEN DECISION

● Mr. EAST. Mr. President, I wish to bring to the attention of the Senate a column by George F. Will which appeared in the June 20 edition of the Washington Post. Entitled "A Toll On The Constitution," the column underscores the Supreme Court's ever deepening inroads into the policymaking prerogatives of the legislative branch.

Mr. Will's piece focuses on the recent 5 to 4 decision that declared unconstitutional a Texas law which denies school district funds for the education of children of illegal aliens. As the author points out:

The court says, in effect, children who have no right to be in the State have right to free public education.

Like Mr. Will, I can find no constitutional basis for such a decision. Once again, the Court has taken it upon itself to mandate social legislation. In my reading of the Constitution, I find no such role assigned to them. Mr. Will concludes by saying:

The majority's ruling may have spared America social costs that are easier to calculate than the toll such rulings take against the integrity of the Constitution and the responsibility of political institutions. The majority opinion is a result in search of reasons. It settles for political rather than constitutional reasons.

I urge all Members of the Senate to read this enlightening article, and ask that it be printed in the RECORD.

The article follows:

A TOLL ON THE CONSTITUTION

(By George F. Will)

Bounding, like a polar bear on an ice floe, from one unstable perch to another, the Supreme Court has decreed, 5-4, the unconstitutionality of a Texas law that denies school districts funds for educating children of illegal aliens, and authorizes the districts to deny admission to, or charge tuition for, such children. Justice Lewis Powell, concurring, says Congress "has not provided effective leadership in dealing with this [illegal immigration] problem." But the court's stab at providing more "effective leadership" than the political branches of government is problematic.

The majority probably does not—indeed, hardly can—know what it has done. The principle, if any, in this result-oriented decision is of uncertain sweep. The result, reversing Texas policy, may be sound social policy, but the opinion is dubious constitutional law.

The Constitution says no state may "deny to any person within its jurisdiction the equal protection of the laws." This does not mean that a state cannot treat different classes of persons differently. According to previous constructions, the equal protection clause requires discriminations to be rationally related to a state's substantial goals. Furthermore, there is especially strict scrutiny of discriminations that involve "fundamental rights" or a "suspect class." What counts as a suspect class varies, sometimes with political fashion, but, basically, such a class consists of a vulnerable minority that has historically suffered irrational discrimination.

Joined by Justices Powell, Blackmun, Marshall and Stevens, Justice Brennan refrains from arguing that free education is a

[21] Congressional Research Service. Kaufman et al., op. cit., p. 10-13.

[22] U.S. General Accounting Office. Feasibility and Cost of Interim Storage for the Strategic Petroleum (EMD-82-95). Appearing in: U.S. Congressional record, daily edition: Wednesday, May 26, 1982: S6055-6059.

"fundamental right." But, he says, "neither is it merely some government 'benefit' indistinguishable from other forms of social welfare legislation." Brennan means education is important. This is true, but its constitutional significance is obscure, and leaves unclear whether, say, states must now provide all welfare benefits to illegal aliens. Do food and medical care fall in Brennan's new territory between "fundamental rights" and mere "benefits"?

Brennan could better have argued simply that immigration policy is a federal responsibility. Instead, his basic argument against Texas is this:

The federal government lacks the ability to slow substantially the flow of illegal immigrants. Many will become permanent residents. Texas' law is not an "effective" deterrent. And it might produce a permanent underclass of uneducated, unemployable residents more costly than is the education of illegal immigrants' children. Besides it is unjust (Brennan is not a stickler for distinguishing between things unjust and things unconstitutional) to try to influence parents' decisions by burdening children.

Joined in the minority by Justices O'Connor, Rehnquist and White, Chief Justice Burger says that were he a legislator, compassionate and cost-benefit considerations would cause him to oppose the Texas law. But in making the point that policy arguments do not determine constitutional questions, he goes too far, calling Texas' policy "senseless." Were that true, the law would be unconstitutional because its discrimination would not be rationally related to an important state objective. Burger actually argues otherwise.

The issue, he says, is whether when allocating finite resources, a state has legitimate reason to differentiate between those who are and are not lawfully within the state. The majority, having admitted that illegal aliens are not a "suspect class" and that free education is not a "fundamental right," has, Burger believes, rested its decision on political judgments. For example, it asserts that denial of free education is an "ineffective" deterrent to illegal entry, or that savings as a result of the law would not "necessarily" improve education in Texas.

Burger argues that Texas has a right to reason that a denial of an important benefit is likely to have some deterrent effect on potential illegal immigrants. Burger wonders if the majority ruling means that illegal aliens cannot be barred from Medicare and Medicaid unless it can be shown that barring them would improve medical care for others.

The court has hitherto held that states can admit "bona fide residents" to schools on a preferential tuition basis. Yet now the court says states cannot charge illegal aliens a special tuition. The court says, in effect, children who have no right to be in the state have a right to free public education. Burger says: "I assume no member of the court would challenge Texas' right to charge tuition to students residing across the border in Louisiana who seek to attend the nearest school in Texas."

The majority's ruling may have spared America social costs that are easier to calculate than the toll such rulings take against the integrity of the Constitution and the responsibility of political institutions. The majority opinion is a result in search of reasons. It settles for political rather than constitutional reasons.●

89-059 O-86-37 (Pt. 11)

## THE BUDGET AND NURSING HOME INSPECTIONS

● Mr. PRYOR. Mr. President, on Tuesday, June 15, I introduced Senate Resolution 411, which expresses the sense of the Senate that changes not be implemented in the survey and certification requirements for health care facilities participating in medicare and medicaid programs. These changes were earlier proposed by Secretary of Health and Human Services, Richard Schweiker, on May 24.

I introduced this resolution because I feared that any relaxation of current licensing and inspection standards would be an open invitation to the types of abuses so rampant in the 1960's and 1970's.

But relaxation of the regulations now governing nursing homes and other health care facilities is not the only impending threat to residents. Budget cuts in the Federal share of money for nursing homes inspections have already meant that some States have had to curtail their surveillance and inspections of nursing homes by as much as 65 percent. And further reductions are planned as part of the fiscal 1983 budget.

Mr. President, the National Citizens' Coalition for Nursing Home Reform has developed estimates on the impact of proposed budget changes which every Member of Congress should find no less than alarming. I ask that the Citizens' Coalition synopsis be printed in the RECORD.

The synopsis follows:

IMPACT OF ELIMINATION OF SPECIAL MATCHING RATES ON MEDICAID SURVEY AND CERTIFICATION PROGRAM

The Federal Government currently matches states' expenditures for salary, travel, and training costs incurred as part of their Medicaid survey and certification program at a level of 75 percent.

The Administration's fiscal year 1983 budget proposal of $31.8 million for Medicaid survey and certification is based on current law. As the chart below illustrates, total combined outlays under current law will be $45.6 million for this program.

[In millions of dollars]

| | State outlays | Federal outlays | Combined outlays |
|---|---|---|---|
| Salaries, travel, and training | 9.0 | 27.0 | 36.0 |
| Other | 4.8 | 4.8 | 9.6 |
| Total | 13.8 | 31.8 | 45.6 |

The proposal to eliminate the special matching rate will cause all cost incurred by the States under this program to be reimbursed at a 50 percent level, shifting a $9 million burden from the Federal Government to the States.

This will not affect total national outlays if States are able to double their salary, travel, and training budgets for survey and certification activities. If States can double their expenditures, outlays would look like this:

Total State outlays, $22.8 million.

Total Federal outlays, $22.8 million.

Total combined outlays, $45.6 million.

It may be more reasonable to assume, however, that States will either maintain spending at the level they had budgeted for fiscal year 1983 (that is, $13.8 million) or actually reduce spending because of budgetary and economic pressures.

If States spend what they had budgeted to spend for 1983, total combined outlays will be only $27.6 million, as illustrated below:

Total State outlays, $13.8 million.

Total Federal outlays, $13.8 million.

Total combined outlays, $27.6 million.

If States spend 10 percent less than what they had budgeted for 1983—a likely occurrence—total combined outlays will be only $24.8 million, as illustrated below:

Total State outlays, $12.4 million.

Total Federal outlays, $12.4 million.

Total combined outlays, $24.8 million. $24.8 million represents a reduction of nearly 50 percent from total combined outlays envisioned under the Administration's proposals. More importantly, it represents only 37 percent of the actual costs needed to perform the minimum number of surveys mandated by law. According to an official of the Health Care Financing Administration (HCFA), $66.4 million is required for a "fully funded budget" to implement current law. This figure is detailed on an accompanying page.

For more information, please contact the National Citizens Coalition for Nursing Home Reform (NCCNHR), 797-8227; ask for Bob Wainess or Elma Griesel.

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JANUARY 1982 SURVEY OF STATE AGENCIES IMPACT OF FEDERAL BUDGET CUTS ON NURSING HOMES

SUMMARY

Twenty-eight out of the twenty-nine States responding have experienced cuts due to a reduction in Federal funds for the survey and certification program which enforces the standards of care for nursing homes.

Only six States have seen an increase in State funds to make up for part of this loss.

Every State agency except Indiana responded that it has lost staff, and in the case of all but four States, agencies have had to lay off surveyors to absorb the cuts in funds.

State agency loss of personnel ranged from 15 to 50 percent with one State losing all of its full-time personnel.

Twenty-four States have had to make program changes in response to the budget cuts and subsequent personnel loss. Of these, seventeen now conduct surveys less frequently, many on a less than annual basis.

Eleven States have shortened their surveys.

Five States named Life Safety Code (fire safety) evaluations as a main area for reduction in survey emphasis.

These statements are taken from, "Survey of State Agencies: Impact of Federal Policy Changes and Budget Cuts on Nursing Homes," National Citizens Coalition for Nursing Home Reform, March, 1982. For more information or a complete copy of this survey, please contact Barbara Frank or Elma Griesel, NCCNHR, 797-8227.

IMPACT OF FEDERAL BUDGET CUTS ON SELECTED STATES' MEDICAID AND MEDICARE SURVEY AND CERTIFICATION AGENCIES [1]

KANSAS

Department of Health & Environment has "laid off several people."

Will "seriously jeopardize" the ability of the State to conduct survey and certification activities.

OREGON

Survey and Certification staff reduced from 42 to 27 since October, 1981.

Has lost "nearly half" of long term care survey and certification staff.

DELAWARE

Lost two professional staff; two support staff.

Cut back on hospital, home health, and other facility survey activities.

MISSOURI

Reduced support staff significantly.

RHODE ISLAND

Survey and certification staff cut from 37 to 30.

PENNSYLVANIA

Lost 31 positions: 24 percent of Long Term Care survey staff.

WYOMING

Cut four professional, one support staff.

MINNESOTA

Cut 2 supervisors; 4 supervisors.

IDAHO

Budget reduced 54 percent in 1981.

Survey and certification staff reduced from 22 in 1980 to 10.5 today.

IOWA

Lost one-third of survey staff over past 2 years.

TEXAS

Forty inspectors laid off: reduction of 25 percent.

HAWAII

Has lost one surveyor; may lose fire inspector and pharmacy consultant.

"Few if any follow-up visits" are now being performed on facilities with deficiencies.

MONTANA

Surveyor staff cut by 50 percent.

NEW JERSEY

Lost 10 surveyor positions.

MAINE

Lost the only two full time surveyor positions.

COLORADO

Lost 38 percent of funding over last 2 years.

Lost 38 percent of surveyor staff (40 staff last year; 25 this year).

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BUDGET INFORMATION FOR THE MEDICARE AND MEDICAID SURVEY AND CERTIFICATION PROGRAMS

(Information compiled by the National Citizens' Coalition for Nursing Home Reform, June 1982.)

These programs are important to help assure that beneficiaries receive the services offered by facilities and to help assure that tax dollars are expended efficiently and effectively.

According to information we have received from the Health Care Financing Administration, and particularly from State survey and certification agencies,the program is in serious jeopardy because of budget cuts, as indicated below:

[In millions of dollars]

| | Medicare | Medicaid |
|---|---|---|
| 1981 | 29.760[1] | 36.140 |
| 1982 | 13.581[2] | 31.837 |
| 1983[3] | 31.162 | 31.800 |

[1] This amount was actually cut substantially, crippling the state survey programs in 1981-82. (Most states combine their Medicare-Medicaid survey programs.)

[2] HCFA—HHS requested a $9 million increase May 18, 1982. The Subcommittee on Labor, Health and Human Services and Education Appropriations turned down this request, although Chairman William H. Natcher expressed that the Subcommittee "is sympathetic and potentially supportive of increased Federal support for nursing home inspections."

NCCNHR has been advised that HCFA is now finalizing this request (through HHS, then OMB) for $4 million (as compared to the $9 million.) This $4 million is needed for distribution to the states for program needs for this fiscal year ending 10-1. The money would be reprogrammed.

[3] 1983 budget. HCFA is asking the Secretary, then OMB, to approve $31 million which is much more than the President's budget request of $18,700,000 for Medicare for 1983.

ACTUAL BUDGET NEEDS FOR 1983

HCFA staff estimates on what would constitute a "fully-funded budget" to implement current survey and certification regulations. Budget figures given to NCCNHR June 1982.

Projected budget for 1983 (based on actual costs for Nation):

| | Average survey cost | Millions |
|---|---|---|
| Title 18—Medicare: | | |
| 5,100 skilled nursing facilities | $3,200 | $16.32 |
| 1,550 hospitals (non-JCAH) | 5,400 | 8.37 |
| 3,350 home health care agencies | 2,156 | 7.22 |
| 1,200 renal dialysis | 2,156 | 2.58 |
| 3,500 clinical laboratories | 2,156 | 7.55 |
| 3,600 others (portable X-ray labs, oral health clinics, PT, etc.) | 2,256 | 7.76 |
| Total | | 49.96 |
| Title 19—Medicaid: | | |
| 2,580 skilled nursing facilities | 3,200 | 8.0 |
| 11,200 intermediate care | 4,200 | 47.0 |
| 1,215 ICF-MR facilities | 4,200 | 5.1 |
| Total | | 60.4 |
| Plus 10 percent for followup costs—total medicaid | | 66.4 |

Note.—Total needed: Medicine ($54.8) plus medicaid ($66.4) = $121.2 million.

This $121.2 million for monitoring/certification activities is extremely small when compared to the $50 billion spent for both Medicare and Medicare programs (1979 statistics).

It is important to note that these survey/certification programs monitor care and service delivery in a wide variety of facilities; furthermore, the services provided by these facilities and programs potentially benefit approximately 25 million elderly persons. (24 million elderly persons covered by Medicare plus approximately 1.2 million persons in Medicaid-certified facilities.)

Furthermore, drastic cuts have been made in the staffs of regional offices of HCFA. These offices have the responsibility to perform "validation" surveys of state surveys and surveys conducted by the Joint Commission on the Accreditation of Hospitals. A recent internal report by HCFA points out that loss of 27 Commissioned Corps staff in eight regions has led to a 39 percent cut in the total number of surveyors performing full-time direct Federal Surveys. According to the report, these cuts "would seriously jeopardize the continuation of responsible monitoring surveys" by the regional offices. In addition, the national office of HCFA has received cuts in staff and more cuts are projected. Federal oversight activities will definitely be diminished. (A copy of this report is available from the NCCNHR office, 797-8227. Ask for Barbara Frank, Elma Griesel or Bob Wainess.)●

[1] Based on mailed questionnaires and telephone interviews, January—June, 1982.

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## COLORADO GREETS BAVARIA

● Mr. ARMSTRONG. Mr. President, today marks the opening in Erlangen, West Germany of a 3-month cultural exchange program between the states of Bavaria and Colorado. A delegation of Colorado business, educational, cultural, and political leaders is in Erlangen today to participate in the opening ceremonies.

This interesting, privately organized program is designed to foster closer personal and business relationships with our friends in southern Germany, and I would like to call the attention of my colleagues to this significant exchange.

In addition to Colorado State officials, the group of Coloradans includes George M. Wallace and Carl A. Worthington, president and vice president of Intercontinental Alliance. The alliance is a nonprofit organization with headquarters in Boulder, Colo., and is cosponsoring the exchange program.

This program will feature exhibits and programs on Colorado history, culture, art, geography, and industry. Receptions and special seminars are also planned. The exhibits begin their Bavarian tour today and will visit three more cities before ending in Munich this October. Next summer, a similar tour of Bavarian exhibits and dignitaries will visit Colorado.

The idea for the exchange was conceived by Worthington, a Boulder architect and planner, and by Wallace, the chief operational officer of the Denver Technological Center. The Intercontinental Alliance was founded last year to promote the exchange and is headed by Laurel Zakovich, a Denver real estate broker and educator.

The first group of Coloradans to visit Bavaria will spend one to two weeks there. Another 150 Coloradans will travel to Germany later this summer and fall to take part in seminars on urban planning, medicine, transportation, education, investments, technology and the arts.

Large photo murals depicting Colorado scenes will be displayed, along with western and Indian art, rodeo exhibits and cowboy memorabilia. The Nancy Spanier Dance Theater of Colorado will perform and two films will be shown: the full-length Indian movie "The Windwalker" and a John Denver film. Additional exhibits will be added to the program during the summer.

Other members of the first Colorado delegation to Bavaria include Bruce Shepard of Colorado Springs, regional

administrator of the U.S. Department of Housing and Urban Development; Frank Mullen, founder of Urban Education 2000 and chairman of Futures Foundation; Merle Carpenter, president of Otero Savings; Irene Rawlings, project coordinator for Intercontinental Alliance and writer on art, travel and historic preservation, and Louise Singleton, coordinator of Project Colorado and the Governor's front range project.

Also included in the delegation will be Ruth Hoffman, professor of mathematics at the University of Denver; Pauline Hodges, associate professor in language arts at Colorado State University; Dr. Firmon Hardenbergh, founder of the Rocky Mountain Eye Foundaton; Dr. William Halseth, assistant clinical professor of surgery at the University of Colorado Medical Center; Dierk Ladendorff, a Boulder real estate developer and international investment counselor, and Robert Gehler, city attorney for Commerce City, Brighton, and Lafayette.

In addition to Erlangen and Munich, the Colorado exhibit will visit the Bavarian cities of Regensburg, Augsburg, and Garmisch-Partenkirchen. The exhibit will stay for approximately 2 weeks in each city except Munich, where it will stay for 1 month.

The "Colorado greets Bavaria" program is being funded through private donations and approximately $250,000 pledged by the state of Bavaria. Bavaria is also providing choice exhibit halls and other support services. The Society of Intercontinental Contacts in Munich is cosponsoring the program.●

## NASA'S SPACE STATION

● Mr. RIEGLE. Mr. President, yesterday, James M. Beggs, the Administrator of NASA, addressed the Detroit Economic Club and Detroit Engineering Society at their regular breakfast session.

During his remarks, Mr. Beggs made some very enlightening comments about the future of the United States in outer space. In particular, he focused on his proposal for our Nation's next major space effort—a permanent manned space station.

I feel it is very appropriate that Mr. Beggs would come to Detroit, a city whose name is synonymous with some of the most significant advances in technology, to highlight his major technological proposal.

Mr. President, I ask that the full text of Mr. Beggs' speech be printed in the RECORD.

The text follows:

REMARKS: DETROIT ECONOMIC CLUB AND DETROIT ENGINEERING SOCIETY

Thank you.———, Honored Guests, Ladies and Gentlemen:

I am honored to appear before this distinguished audience in this important forum. The Economic Club of Detroit and the Engineering Society of Detroit are making an important contribution to the public by promoting greater awareness of national issues, and in a wider sense, a broader understanding of our complex problems in this increasingly interdependent world.

George Santayana once said: "Those who cannot remember the past are condemned to repeat it."

This is as true today as it has been throughout our history. Because we have learned from the past we have maintained the forward thrust of our young civilization. Indeed, young people are often the first to recognize this fact.

A few years ago a professor at the Wharton School of Finance tried an exercise to promote more crisp and concise expression among his students. He asked them to sum up in two words the outstanding characteristics of American society. What, in other words, has made us tick as a Nation?

The best answer came from a young woman. Her two words were "we advance."

The key to that advancement, I believe, lies in the fact that we have a continuing urge to chart new paths and to explore the unknown. And that is the hallmark of any great nation.

That instinct drove Lewis and Clark to press across the uncharted continent. It guided Admirals Peary and Byrd to the icy wastes of the Poles. It drove Lindbergh alone non-stop across the Atlantic and sustained 12 Americans as they walked on the Moon.

The compulsion to know the unknown built our Nation. It impelled the pioneers to extend our frontiers across the wilderness to the Pacific. It was the compelling reason behind the "Yankee ingenuity" that increased our commerce and world trade. It moved our businessmen and our farmers to apply new technology to raise the productivity of our farms, factories and transportation systems. It challenged our leaders to develop dynamic new corporate, labor and governmental institutions. And it spurred the creativity of our scientists and engineers so that today, we lead, and are indeed, envied by the rest of the world in science and technology.

It is clear that if we ever lose this urge to know the unknown, we would no longer be a great Nation. We must continue to advance the frontiers of knowledge. Nowhere is that challenge greater than in the continuing exploration of the last frontier—that of space.

Increasing our knowledge of the near-earth environment, the solar system and the Universe will eventually help us to unlock the puzzle of why and how we came to be and what our future destiny might be. The spectacular photos of Saturn and the data returned from the remarkable journeys of the Voyager spacecraft have already taught us more about that planet than we knew from centuries of recorded observations. Moreover, in space there are real resources and opportunities for commercialization and industrialization. And space holds the promise of eventual human habitation on a permanent basis.

At NASA we are stretching our horizons to encompass all of these mighty challenges.

In the short lifetime of my agency, which stretches back only 24 years, we have come from an aeronautical base into a magnificent new era of space transportation with the Space Shuttle. This world's first reusable space vehicle, will give us routine, reliable and economical access to and from lower earth orbit and will provide the first step to similar access to geosynchronous orbit, lunar orbit and beyond, to the true exploration of the Solar System itself. Its three test flights have proved that the concept is extremely sound. We are expecting to learn more about the Shuttle and its capabilities in its last test flight in just four days. And in November of this year it will begin operational service as the true workhorse of space transportation.

We are proud of the successful performance of this remarkable aerospacecraft and look forward to the time when it will demonstrate its versatility to the utmost—as a launch vehicle, as a spacecraft, as a base for scientific research, as a transport for commercial spacecraft, as a repair facility for satellites in trouble, and as the provider of routine roundtrip transportation to and from space.

Needless to say, we are also heartened by public backing for the Shuttle program. A recent Associated Press/NBC News poll indicated that 60 per cent of the public believe the Shuttle is a good investment for America. Other polls tell us that 40% of the public think that the United States should be spending more on the space program. This is the greatest public support in the history of the agency—higher even than in the halcyon Apollo years, when we were very popular.

To me this support means two things. The first is that Americans are becoming increasingly aware of how crucial a vigorous high technology program is in keeping us ahead of our competitors in Space. The second is that there is a growing realization that the national investment in the type of research and development that NASA does so well is more than worth it. The payoffs include new industries, new jobs, new products, new knowledge and a new spirit of national pride. Indeed, many have argued that the single transfer of NASA-developed communications satellite technology alone could suffice as payoff for our entire expenditures on the space program to date.

I am pleased that President Reagan and his Administration fully understand how important our work is to the Nation. Even in these times of budget austerity, Administration support is strong. It resulted in a request for an eleven percent increase in real-year dollars over last year in NASA's Fiscal 1983 budget. This means that the Administration is committed to bringing the Shuttle to full operational capability and will support progress in all NASA major program areas.

In a few years a fleet of at least four Shuttles will be flying routinely to and from space, ferrying into orbit commercial, scientific and national security payloads. The Shuttle has given us a head start in the commercialization, utilization and exploration of space. But as we look to the future, we must begin to secure that leadership in space through the end of the century and beyond. The way to do this is to set a fruitful new direction for the Space program, one which would make the best use of the Shuttle's capabilities. And the time to do it is now.

I believe that our next logical step is to establish a permanent manned presence in low-earth orbit. This can be done by developing a manned space station. At NASA we have begun to focus on that goal. We think that such a station could be built and placed in orbit by 1990. It would be small at first, assembled in orbit with modules carried to space by the Shuttle. Once there, the station would make a vital contribution to our Nation's future, by opening new vistas of science and technology, new possibilities for

commercial applications of space, and new opportunities to enhance economic security and the national defense.

To many, the idea of a space station may seem a bit farfetched, and esoteric science fiction fantasy that could only be realized centuries from now. But they forget that once before the United States developed and launched a space station, although one not designed for a permanent presence in orbit. It was called Skylab and it was launched almost ten years ago, in May of 1973.

Skylab served as home for nine astronauts during its active life of 1½ years in orbit. On three separate occasions, men lived and worked in this United States space station, for periods of 28, 58 and 84 days. Skylab not only demonstrated that humans could function comfortably and effectively in space for extended periods, but it showed how important man is to our activities in space. On several occasions astronauts had to perform critical repairs on the spacecraft, both internally and externally. Indeed, the Skylab program nearly failed on its launch day but a skilled flight crew was able to rig an emergency thermal protection system and then two astronauts went outside the spacecraft to release a stuck solar array. These repairs permitted the mission to continue as originally planned.

Skylab also demonstrated the utility of an orbiting scientific laboratory. Its eight different solar telescopes greatly increased our knowledge of the sun, the stars and the galaxies; its earth sensing instruments revealed data about our earth otherwise unobtainable.

Now that we have the Space Shuttle, we owe it to the Nation to make optimum use of this new capability of routine and reliable access to and from space. What better way to make full and complete use of the Shuttle than to develop a manned space station in orbit tended and supplied by the Columbia and her sister ships?

In fact, the Shuttle program originally was conceived to include a space station. More than a decade ago a total system was envisaged in which the Shuttle would transport payloads routinely to such a station. Today we see the Station functioning in many roles. It would serve as a scientific laboratory, and as a space operations facility for assembling, resupplying and servicing satellites, and launching spacecraft to higher orbit. And, of course it would play a role in national defense.

No doubt the Australians will be glad to hear that this time the station would have a reboost capability and controlled deorbit mechanism to enable it to stay in space for as long as we want it there.

There is much to do and much to learn in space—much that we would like to do and would be able to do with a space station. With a permanent human presence in orbit, we will much more effectively support those instruments which will probe further and further in space in our quest to more thoroughly understand our universe. We would look down, and, through the technology of remote sensing, improve our understanding of our own earth, the natural resources it possesses and the impact of man upon those resources. With a space station, we would find it easier and more economical to launch planetary probes to study the surface chemistry of Mars and the geology of Venus. This knowledge would give us a much better idea of how all the terrestrial planets evolved from the solar nebula so that we might more accurately chart the course of Earth's future evolution.

The space station would serve as the assembly point for manned or unmanned missions to Mars and for probes to the asteroids and comets, which scientists believe contain a chemical record of the evolutionary phases of the solar system. With the station, ultimately, we could send to the nearby planets unmanned probes which could be programmed to return samples of planetary surfaces. Analysis of these samples would help us better to understand why life evolved on Earth and probably no where else in the solar system.

There are exciting and important opportunities, too in commercial applications research in a space station.

Commercial applications of space technology, such as materials processing development and communications satellites, hold promise of development into markets far beyond those we see today. And many will see their origins in a space station of the type we have in mind. The span of these commercial possibilities is limited only by the boundaries of our imagination. And these boundaries would be vastly expanded by the experience we will gain from early use of the space station.

The development of a space station would also open new opportunities for international cooperation in space. Indeed, a space station could be the logical catalyst for a great new international cooperative venture for the Free World. It could serve to focus the intense interest and capabilities in space that our allies in Europe and this continent as well as in Japan already have. And it could provide a mutually beneficial cooperative project to cement Free World ties.

We already have a long history of international cooperative ventures in space stemming from the 1958 National Aeronautics and Space Act, which created NASA. Already we have more than 1,000 agreements with over 100 nations covering the full range of cooperative activities. Among the most visible of these are the $100 million Canadian-built Remote Manipulator System. The essential remote arm of the Shuttle; and the $1 billion European-built Spacelab, an orbiting laboratory which will be launched next year in the Shuttle's cargo bay.

An international cooperative effort on a space station would continue to link other countries' space programs to the Shuttle, strengthening the overall space program of the United States.

But as you and I know, there are many who would decry a new program of expansion into space. They would argue that we cannot afford to apply our limited resources to such goals as space stations and the like. The problems we face on Earth, they say, must come first; and never mind the planets and the stars. They will always be there.

I would remind these nay-sayers of the lessons of history. Since 1957 when Sputnik first shocked the United States into a space program, we have not been alone in space. Today although we still lead the world in space technology, and the Shuttle gives us perhaps a decade of breathing space to maintain that leadership, we have been joined by many nations and we now face growing and serious competition in space.

That competition comes not only from our friends in Europe and Japan, but from the Soviet Union, which has repeatedly stated its intention to construct a permanently manned orbital facility.

Although many tend to debunk Soviet technology and accomplishments in space, the Russians already have demonstrated an impressive operational space station capability. Their Salyut 6, presently unmanned, was launched in 1977, and was home to five main crews and eleven visiting crews from Eastern Europe, Cuba and Vietnam. Indeed, the Vietnamese cosmonaut who flew abroad Salyut 6 has more flight time in space than our second Columbia crew—Joe Engle and Dick Truly—combined. Salyut was resupplied periodically by the unmanned Progress spacecraft, and impressive technological achievement. And its crews were busily engaged not only in military activities, but such civil functions as remote sensing, materials processing, space biology and medicine, astronomy and astrophysics.

The Soviets recently launched Salyut 7, to replace Salyut 6. Salyut 7 is now occupied by cosmonauts and has been reported to represent a larger, more sophisticated system that would move the Soviet Union another step forward in its quest for dominance in near-earth space. It is imperative that the United States and the Free World meet that challenge effectively and soon.

To Paraphrase Shakespeare, if "we do not take the current when it serves," we will "lose our ventures." I believe the current serves us well now. The door to space has been opened and it could no more be slammed shut than could the doors opened by Gutenberg's printing press, Galileo's telescope, Fulton's steam engine or the Wright Brothers first flight. And that door leads inevitably to the extension of the human environment into space.

Three factors make a space station a logical step in mankind's inevitable evolution into a space-faring civilization.

The first factor is that the station would build on the capability of the Shuttle to exploit the human presence in space effectively and economically. It would represent a major step towards the goal of true exploitation of the opportunities which space provides for improving our nation's position in the world and for improving the quality of life for all mankind.

The second factor is utility. The space station would give us a place to do important, indeed, essential work in the areas of space science and exploration, technology development, space applications and national security. Space, we now know, is not just a place to visit. It is a place to work.

The third factor is one less tangible, but equally important. As a highly visible permanent United States presence in space, a space station would serve to enhance national pride at home and national prestige abroad. The Shuttle has done this for us today. The Space Station can do it for us tomorrow.

More than two hundred years ago, when our Nation was founded, we were weak in arms, poor in goods, but rich in spirit. Thomas Jefferson was able to say then after he drafted the Declaration of Independence that "we act not just for ourselves alone, but for the whole human race."

Today, the United States is strong in arms and rich in goods and still rich in spirit. We have built a magnificent new Space Transportation System. It holds unlimited opportunities for reinvigorating our economy, inspiring our youth, amassing new scientific knowledge, strengthening our defense and enhancing our national pride and prestige.

And we have an opportunity to act again, not just for ourselves, but for the whole human race.

Thank you.●

## PROFESSIONAL RADICALS

● Mr. EAST. Mr. President, the recent demonstrations at the United Nations Second Special Session on Disarmament have attracted wide attention in the media. What has not attracted very much attention is the role of Communist Party and Communist Party front groups in the planning and conduct of some of these demonstrations. The accompanying article from Human Events, June 26, 1982, by Julia Ferguson entitled "Professional Radicals Stage Big Show at United Nations" exposes this activity, which I believe has deceived both many supporters and participants in the demonstrations as well as many observers and sympathizers with the goals of peace and disarmament.

I commend Miss Ferguson's article to my colleagues and to all Americans who wish to learn the truth about the real participants, goals, and events at these recent demonstrations, and I request that the article be printed in the RECORD.

The article follows:

PROFESSIONAL RADICALS STAGE BIG SHOW AT UNITED NATIONS

(By Julia Ferguson)

UNITED NATIONS, N.Y.—Shortly before President Reagan's hard-hitting address to the United Nations Second Special Session on Disarmament (SSD-II) last week, a Communist observer from a key U.N. non-governmental organization—who undoubtedly did not expect such tough talk from the President—was overheard telling his East German companion, "This is our victory; we made Reagan concede to the power of our movement and come to the SSD."

That was not an idle boast. The SSD-II is a Moscow-organized and orchestrated event and is a major ploy in the Soviet peace offensive to extract major arms concessions from the United States.

According to Michael Myerson, an identified leader of the Communist Party, U.S.A. (CPUSA), writing last March in his role as executive director of the U.S. Peace Council (USPC), "this SSD-II comes at the urging of the Non-Aligned Movement and the Socialist countries."

But Myerson's comment was not news to analysts of Soviet covert action against the United States. The USPC, the American adjunct of the Soviet-controlled World Peace Council, and its allies had been planning for this June's "peace" demonstration for many months.

At one level, there would be speeches and meetings at the U.S. to apply international diplomatic pressure for United States arms concessions and at another level, there would be mass marches, conferences and local meetings to generate media coverage and provide the illusion of genuine grassroots opposition to U.S. national defense policies.

Myerson admitted that it was the Soviet bloc ("Socialist countries") and their Third World allies in the so-called "Non-Aligned Movement"—led by Castro's Cuba—which made SSD-II a major operation. And it is equally clear that the World Peace Council was instrumental in focusing attention on the disarmament conference through its influence in the groups that put on the massive "March for a Nuclear Freeze and Disarmament" parade and rally held on June 12 in New York City.

The March showed that the radical left is back in business in a big way, that the professional organizers who did their on-the-job training organizing anti-Vietnam protests to support Hanoi have not lost their touch.

Planning for the June 12 parade, which began at the U.N. and ended in a Central Park rally, commenced a year ago. By the spring of 1981, such veteran anti-Vietnam organizers as Cora Weiss, Sid Peck, Norma Becker, David McReynolds and Paul Mayers, were setting up meetings to plan disarmament activities around SSD-II.

The major outreach to activist left groups commenced with a meeting in New York on Oct. 6, 1981, of 40 representatives of disarmament groups, many with WPC ties.

According to a new study by the Western Goals Foundation of Alexandria, Va., The War Called Peace: The Soviet Peace Offensive, "the leadership role was taken by representatives of CPUSA [Communist Party, U.S.A.] fronts, the U.S. affiliates of international Soviet fronts, and of groups that have close ties with Soviet fronts."

These were identified as including the U.S. Peace Council (USPC), Christian Peace Conference (CPC), Clergy and Laity Concerned (CALCO), American Friends Service Committee (AFSC), Fellowship of Reconciliation (FOR), War Resisters League (WRL) and Women's International League for Peace and Freedom (WILPF). And within a matter of days, the Communist Party, U.S.A., itself was overtly involved in helping to arrange the June 12 demonstration.

During the Vietnam protests, many non-revolutionaries were "turned off" by the presence of militant, street-fighting Marxist-Leninist groups who sought out battles with police. Even then, leaders of the Communist-dominated anti-Vietnam coalitions like New Mobe and the People's Coalition for Peace and Justice (PCPJ) tried to segregate the overtly violence oriented revolutionaries into separate contingents in marches while accepting their aid and presence in the heart of the protest movement. This was the case again on June 12.

Contingents of religious and church groups, New England regional delegations and children were insulated from the large number of Marxist-Leninist parties and from the support groups for Soviet-sponsored terrorists, including the Palestine Liberation Organization (PLO), Irish Republican Army (IRA), South West Africa People's Organization (SWAPO), African National Congress (ANC) of South Africa, the New People's Army in the Philippines, and Farabundo Marti National Liberation Front of El Salvador.

But the terrorist "national liberation movements" and their U.S. support groups were entirely welcome in the "peace" march. Spokesmen for several armed terrorist groups, including the ANC, FMLN, Puerto Rican independence movement, and American Indian Movement addressed either the Central Park rally or spoke from the stage erected in First Avenue past which the march moved.

The presence of so many religious-related groups requires a closer look.

A numbr of the key organizing groups presented themselves as quasi-religious pacifists. But the WRL, which is closely associated with the World Peace Council, has backed virtually every armed domestic and foreign Marxist revolutionary movement that has surfaced in the past 15 years. When the Soviet army marched into Afghanistan two years ago, the leader of the WILPF called it "understandable" considering the "Soviet interest in having close relations with a neighboring country with which it shares a 2,000-mile border."

CALC, spawned by the National Council of Churches, saw the international movement to stop U.S. aid to South Vietnam as a "struggle against American imperialism and exploitation in just about every corner of the world" and defined its task as joining those who "hate the corporate power which the United States presently represents." CALC has been central in bringing religious groups into the campaign to turn over El Salvador to the FMLN terrorists through a cut-off of U.S. aid.

And a leader of the AFSC, in a pamphlet continuously offered for sale for the past decade, excused the terrorist violence by "national liberation movements" as reaction against the "violence of the status quo" which it defined in the broadest possible terms as the "agony" of those who "in varying degrees suffer hunger, poverty, illhealth, lack of education, non-acceptance by their fellow man [and is] compounded of slights and insults, of rampant injustice, of exploitation, of police brutality, of a thousand indignities from dawn to dusk and through the night."

Can it be surprising that they also take virtually identical positions on the "myth" of the Soviet threat? There is little discernible difference between the statements of these groups who organized the June 12 march and the statement of Michael Myerson, the CPUSA official who heads the USPC, that "the main threat to world peace is the U.S. military industrial machine."

The CPUSA reserved to itself and its fronts the position from which to make the final, anti-pacifist statement in the disarmament parade. Following the red Communist party banner, the wide blue and white U.S. Peace Council banner, and the pastel multicolored signs of Women for Racial and Economic Equality (WREE) came some 50 surviving Veterans of the Abraham Lincoln Brigade marching in a column of three and carried in vehicles.

Perhaps the most honest banners in the parade were those that appeared among the overtly revolutionary contingents proclaiming, "Disarm America and Defend World Socialism."

The march past the United Nations was skillfully staged to capture the maximum media attention. Leading the parade was a weird procession marching to the clatter of stilts and the eerie chimes, trumpets, gongs and bells tolled by hundreds of costumed volunteers working with the radical Bread and Puppet Theater. The theater folk manipulated puppet demons, fiery dragons and papier mache monsters of evil capitalists, bankers and generals carrying placards reading "Soviet threat," "window of vulnerability" and so forth, each threatening to incinerate the world's innocents—children, farmers and their donkeys, desert herdsmen and their camels, deer, birds and fish.

Trade union contingents marched and were seized on by the television cameras as examples of the depth of working men and women's opposition to the Reagan Administration's efforts to modernize U.S. defenses. But a closer look showed that the unions were the customary CPUSA-controlled and influenced groups like District 65 (now part of the UAW), District 1199 Hospital Workers, and some more recent allies like William Winpisinger's International Associa-

tion of Machinists and Aerospace Workers (IAM), and Victor Gotbaum's District Council 37, American Federation of State, County and Municipal Employees (AFSCME).

Smaller groups carrying union posters aften turned out to be cadres of the Socialist Workers Party (SWP), International Socialists (IS), CPUSA and other radical organizations.

The large number of groups from Catholic religious orders, Protestant churches, and quasi-religious bodies, demonstrated how effectively the left has been in making inroads in the liberal and mainstream religious communities. Moral and ethical responsibilities to look behind the surface of the evidence, to weigh actions as well as words from gun-toting guerrilla "reformers," and to oppose injustice even with force appeared not to have ever crossed the many bland, smiling faces marching for U.S. disarmament.

Two days later, Flag Day to most Americans, protest groups trained and organized by the June 14 Civil Disobedience Campaign, in which the radical War Registers League played a dominant role, assembled at designated assembly points. Precisely at 8 a.m., they made coordinated moves on the U.N. Missions of the United States, Great Britain, France, Peoples Republic of China and the Soviet Union. But some targets were "more equal" than others.

Police made 1,036 arrests at the U.S. Mission, but only 278 at the Soviet Mission. At the U.S. Mission, several incidents were witnessed in which demonstrators grabbed the ankles of police officers to trip them and one case in which a demonstrator crawling under police barricades struck an officer in the face when blocked. No such incidents were reported at the Soviet Mission.

The television and print media exhibited dogged determination to avoid mentioning participation of revolutionary organizations or the radical anti-defense leanings of the leaders of the June 12 and June 14 protests.

Absent was any mass media information that the "nuclear weapons freeze" would preserve the Soviet Union's strategic superiority and nail open America's "window of vulnerability" to a Soviet surprise strike and to nuclear blackmail by Moscow.

Equally absent from the mass media (with an excellent and notable exception the Wall Street Journal's op-ed page article by Dorothy Rabinowitz) was the digging into the political positions of the June 12 and June 14 organizers which would have exposed their radical view that the U.S. is the chief threat to peace and freedon in the world and that the Soviet Union and its camp followers are the allies of peace.

Keeping the disarmament pressure on President Reagan and Congress is now the goal. The Mobilization for Survival (MFS) disarmament and anti-nuclear coalition—a key part of the rally—may soon by supplanted by a new group called the Federation for Progress (FP). Meetings are scheduled for July 30-August 1 in New York to build a broader coalition with labor and civil rights groups to attack the defense budget through demands for increased social spending.

Stating that "Reagan's deep budget cuts and ominous war drive, which bleed human services to death and pump up an already bloated Pentagon, has forced us all to band together," the FP appeared after issuing a "National Call to Form a Coalition Opposed to the Reagan Administration." Its signers include veteran friends of Hanoi like Don Luce and Sid Lens, veteran CPUSA organizer Anne Braden, George Wald, William Kunstler, Philip Berrigan, Communist Workers party leader Nelson Johnson, Georgia State Sen. Julian Bond, and Congressman Ron Dellums (D.-Calif.) and Parren Mitchell (D.-Md.).

The pattern appears clear: When the U.S. is led by a weak administration dedicated to appeasing the Soviet Union, the U.S. left is quiet or supportive. When a President appears with a more determined effort to thwart Soviet world plans, the U.S. left suddenly revives with overtly pro-Moscow Communists visibly in the lead.

Clearly the demonstrations of June 12 and June 14 were not culminations of radical efforts, but merely the report of the starter's gun.●

## AUTOMATIC INCREASES IN BENEFITS

● Mr. DOMENICI. Mr. President, after the Senate's recent examination of the budget for the coming fiscal year, most Senators are aware that many Federal programs contain automatic increases in benefits. Recipients of social security, supplemental security income, and railroad retirement benefits, for instance, are scheduled to receive a full 7.4 percent cost-of-living increase in July 1982.

Most Senators, too, are well aware that these automatic increases in benefits are far larger than the increases in other sectors of the economy or the increases in other parts of the budget. Social security benefits, to cite one example, increased 205 percent during the last 12 years. Civil service retirement benefits, which are also increased automatically, rose 176 percent over these years. Both types of benefits increased faster than prices, for the Consumer Price Index rose 149 percent in this period—and this figure probably overstates the inflation experienced by most Americans. Furthermore, these benefits increased significantly more than the average worker's paycheck, which rose only 121 percent in the 12 years.

The Members of the Senate are aware of these facts, I believe, so I will not belabor the point. But this distinguished body may not be aware of the impact that automatically rising benefits have on small businesses. I recently received a moving letter from a small businessman in Albuquerque named Lloyd McKee, who explains in some detail his concerns about these benefit programs.

I will let the letter speak for itself, for I think it aptly communicates his indignation at a Government that has let benefits get virtually out of control while giving too little attention to the problems of small businesses. Lloyd McKee does not ask for a new Government program, or another subsidy, or a special tax preference. All he asks is that our Federal Government be run in a business-like manner so that he can run his business in the same way. He is eager to hire more people and to do his part to get the economy rolling again. And he is not alone. I know there are thousands of such individuals in every major city in this country, and I hope this Congress will hear their voices and understand their anguish.

I ask that the letter be printed at this point in the RECORD.

The letter follows:

LLOYD MCKEE MOTORS, INC.,
*Albuquerque, N. Mex., May 14, 1982.*

Mr. THOMAS P. O'NEILL, Jr.,
*Speaker of the House,*
*Washington, D.C.*

DEAR MR. O'NEILL. I try to follow the "Battle of the Budget" as well as I can through newspapers, periodicals, radio and television broadcasts and I am concerned about the attitude that seems to prevail among many of our legislators about the 45 million people covered by Federal Benefit Programs. While this concern is very commendable on your part, it is also very conveniently self serving.

However, unless you begin to think about those of us who work to pay these programs, you are going to kill the goose that pays the taxes to support them. Incidentally, these automatic increases amount to unearned income and is total contrary to the concept of the "Windfall" taxes you levied on businesses.

A year ago we had 102 employees, today we have 87 and none of us who are left have had an increase in our income.

It is incomprehensible to know why you think the 45 million people who are recipients of Federal Benefit Programs are entitled to automatic increases—try to explain to automobile, rubber, airline, etc. workers how you justify such a policy. For example, military retirees have an increse of 8.7% in 1982 over 1981. Why? We work for the same money and many are not even working at all. Millions of us served our time in the military service of our country and only ask for the opportunity to work. Much less have automatic increases.

Food stamp recipients have had an increase of 11.5% in 1982 over 1981. Why? The cost of food is down this year from last. Social Security recipients have had an increase of 7.4%. Why? I understand that many of these recipients have paid into the fund, but so have I for 35 years. Not only do I not get the benefit of any increase, I have to pay more into the Social Security fund. And you have spent all the money we have paid into the fund. Send me back my money and at todays high interest rates, I can invest it in savings and be sure that I too will someday be able to get my money back.

The same principle applies to most of the other Federal Benefit Programs. (Disabled coal miners, Railroad retirement, Supplemental security income, Veterans pensions, Federal Civilian retirees.)

To pay for these programs, the Federal Government is borrowing about one third of all the monies available in the total money market. As small a business as we are, we can't compete with the interest rates you are willing to pay with our tax dollars.

Run the government in a business-like manner for the benefit of those who are paying, not to assure yourself of a job with all its tax benefits. We'll rehire people, buy more cars so the manufacturers can hire more people, the insurance agent will sell more insurance, the finance company will fi-

nance more cars and hire more people, and the Federal Programs will benefit because more people will be paying taxes, which we are willing to pay at current rates, (no decreases) as long as you cut spending.

Respectfully,

LLOYD W. MCKEE,
*President.*●

## MAGNETIC FUSION ENERGY

● Mr. HAYAKAWA. Mr. President, I am pleased to join Senator DANFORTH in introducing Senate Joint Resolution 202 calling for the United States to reaffirm its commitment to the expeditious development of magnetic fusion energy. As an original cosponsor of the Magnetic Fusion Energy Engineering Act of 1980, I continue to support the development of fusion which, unlike oil or gas, is an inexhaustible source of energy. While I endorse the administration's efforts to reduce the Federal Government's budget, I also know that moneys allocated to the research and development of fusion energy today could very likely save us much more money in the future.

The 1980 Magnetic Fusion Energy Engineering Act set a goal to build and successfully operate a magnetic fusion demonstration facility before the end of this century. This is possible, provided we devote funds to make the transition from fusion science to fusion technology and development.

Mr. President, nuclear fusion is free of some of the drawbacks of the various alternative sources of energy. Our oil supply is running out. Coal burned in too great a quantity can be hazardous, heating up the atmosphere by the so-called greenhouse effect. Fusion plants, on the other hand, which will probably be fired in large part by hydrogen obtained from water, will have the potential to produce the vast amounts of electrical energy needed for world consumption.

Some critics contend that fusion will not be useful for 50 or even 70 years. This sort of unwarranted pessimism can easily become a self-fulfilling prophecy. If this Nation does not fund fusion research, we will never develop fusion. A future without the freedom from energy strangulation which fusion can provide, may well be bleak. But the scientific community's outlook is the reverse of this. The community is ready to make the transition from the experimental to the reactor phase. Scientists and engineers have the technology, the organizations and the expertise in the appropriate disciplines to make that transition smoothly.

Because of the potential which fusion energy holds, not only for this country, but for the entire world, I strongly urge my colleagues to join me in supporting Senate Joint Resolution 202.●

## UNITED STATES-CANADA AVIATION BILATERAL TALKS

● Mrs. KASSEBAUM. The Governments of the United States and Canada have been engaged for a prolonged period in negotiating a revised civil aviation agreement. Although the current agreement is seriously imbalanced in favor of the Canadian carriers, the U.S. Government has been wholly unsuccessful in achieving a more equitable arrangement. I am particularly disturbed to note that the Canadian Government has for some time refused to negotiate a new all-cargo arrangement enabling its carrier to maintain an effective monopoly on freighter services between the two countries.

Meetings between the two Governments are now being held in Ottawa. It is my hope that at those meetings the Governments of the United States and Canada will rectify at least the most serious deficiencies in the current situation to reestablish a more balanced relationship without the need to resort to retaliatory actions. If the Canadian Government remains intransigent, however, I trust that our Government is prepared to take immediate steps, such as denunciation of the nonscheduled agreement that currently governs charter services, to redress the current imbalance and protect the economic interest of our consumers and our air carriers.●

## CONGRESSIONAL REGULATION OF THE JURISDICTION OF THE SUPREME COURT

● Mr. EAST. Mr. President, as my colleagues are well aware, the U.S. Supreme Court in recent years has assumed a role far beyond that which many believe to be proper within the system of checks and balances established by the Constitution. More controversial, however, is the question of what this body should do to rectify the situation. Among several options is congressional regulation of Supreme Court jurisdiction so as to remove from the Court the power to decide certain classes of cases. A recent article in the American Bar Association Journal by Carl A. Anderson, counselor to the Under Secretary of the Department of Health and Human Services, demonstrates the broad extent of this option. Mr. Anderson observes that "A growing number of Members of Congress share Professor Wechsler's view that the plan of the Constitution is for Congress to 'decide from time to time how far the Federal judicial institution should be used.'" This article should prove instructive to advocates of judicial supremacy who argue that Congress is powerless to respond to judicial policymaking when it is undertaken in the guise of interpreting the Constitution.

I ask that this article be printed in full in the RECORD at the conclusion of my remarks.

The article follows:

[From the American Bar Association Journal, June 1982]

THE GOVERNMENT OF COURTS: THE POWER OF CONGRESS UNDER ARTICLE III

(By Carl A. Anderson)

The American Bar Association has had a consistent position with regard to proposals that Congress exercise its authority under Article III, Section 2, of the Constitution, to limit the appellate jurisdiction of the Supreme Court. The House of Delegates in 1950 approved a resolution urging an amendment to the Constitution establishing in the Supreme Court appellate jurisdiction in all cases aising under the Constitution, both as to law and fact. Since then the House of Delegates on several occasions has passed resolutions in opposition to legislation removing Supreme Court appellate jurisdiction in certain cases. There may be good reasons for the A.B.A. to continue its traditional stance of opposing legislative initiatives to implement the exceptions clause, but those reasons must be grounded in practical considerations regarding specific legislation, for the authority of the Congress to determine the Supreme Court's appellate jurisdiction is simply beyond dispute.

Article III, Section 2, of the Constitution provides that the "Supreme Court shall have appellate jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make." As Prof. William Van Alstyne noted in 15 Arizona Law Review 229 (1973), the dependency of the Supreme Court's appellate jurisdiction on the action of Congress was acknowledged early in our constitutional history by the Court in opinions that constituted an "unwavering line" through five chief justices: Oliver Ellsworth, John Marshall, Roger B. Taney, Salmon P. Chase, and Morrison Waite.

Most instructive on the issue of the intent of the framers of the exceptions clause is the work of Oliver Ellsworth. As a member of the Constitutional Convention's Committee on Detail, he helped draft the exceptions clause. As a member of Congress, he was the principal author of the Judiciary Act of 1789. And as chief justice, he first interpreted the exceptions clause in *Wiscart v. D'Auchy*, 3 Dallas 321 (1796), to affirm the broad power of Congress under it. Rejecting arguments that the Supreme Court should itself be the final arbiter of the extent of its appellate power, he wrote: "Here, then, is the ground, and the only ground, on which we can sustain an appeal. If Congress has provided no rule to regulate our proceedings, we cannot exercise an appellate jurisdiction; and if the rule is provided, we cannot depart from it."

Equally important are John Marshall's remarks in 1788 before the Virginia ratifying convention: "What is the meaning of the term 'exceptions'? Does it not mean an alteration and diminution? Congress is empowered to make exceptions to the appellate jurisdiction, as to law and fact, of the Supreme Court. These exceptions certainly go as far as the legislature may think proper for the interest and liberty of the people."

Later as chief justice in *United States v. More*, 3 Cranch 159 (1805), Marshall affirmed Ellsworth's principle and made clear that the exceptions clause would permit

Congress to make exceptions to the Court's appellate jurisdiction over an important class of cases based on their subject matter: "[A]n affirmative description of its [this Court's] powers must be understood as a regulation, under the Constitution, prohibiting the exercise of other powers than those described." In More the Court held it could not exercise appellate jurisdiction in criminal cases since Congress had failed to grant it that jurisdiction expressly.

During the intervening years the Court repeatedly recognized the authority of Congress to limit the appellate jurisdiction of the Court—*Durousseau* v. *United States*, 6 Cranch 307 (1810); *Barry* v. *Mercein*, 5 How. 103 (1847); and *Daniels* v. *Railroad Company*, 3 Wall. 250 (1865). The following observation from Daniels is illustrative: "It is for Congress to determine how far, within the limits of the capacity of this court to take, appellate jurisdiction shall be given, and when conferred, it can be exercised only to the extent and in the matter prescribed by law. In these respects it is wholly the creature of legislation."

Even Justice Joseph Story, who was repeatedly critical of congressional action under Article III, wrote in his Commentaries on the Constitution that the exceptions clause was intended "to enable Congress to regulate and restrain the appellate power, as the public interests, might from time to time, require."

It was against this backdrop that the Court first considered the constitutionality of an act of Congress specifically creating an exception to its appellate jurisdiction. Ex parte McCardle, 7 Wall. 506 (1868), involved a Mississippi newspaper editor's appeal, under an 1867 amendment to the Judiciary Act of 1789, for a writ of habeas corpus. Three days after arguments on the merit of McCardle's appeal were made before the Court, Congress repealed the 1867 law, fearing that the Court's decision would declare unconstitutional the Military Reconstruction Act of 1867. More than a year later the Surpreme Court announced its unanimous decision. Observing that it was "hardly possible to imagine a plainer instance of positive exception." Chief Justice Chase concluded: "We are not at liberty to inquire into the motives of the legislature. We can only examine into its power under the Constitution; and the power to make exceptions to the appellate jurisdiction of this court is given by express words."

Despite the Court's decision in McCardle—and, more important, despite the fact that it was part of an unbroken judicial interpretation of Article III—some people have cast doubt on the authority of Congress under the exceptions clause. Prof. Henry M. Hart, Jr., for example, proposed in 66 Harvard Law Review 1362 (1953) that the activity of Congress under the exceptions clause "must not be such as will destroy the essential role of the Supreme Court in the constitutional plan." The basic difficulty with this essential role test was recognized by Professor Hart himself when he observed that the Supreme Court has never "done or said anything" to indicate it would adopt his view.

But there is, or ought to be, a more fundamental question: Just what is the constitutional plan to which Professor Hart adverts? His argument neglected to provide an answer, except to say that in the "scheme" of the Constitution the state courts are the "primary guarantors" of constitutional rights.

The "constitutional plan" embodied in Article III is essentially a compromise between two very different views of the role of federal judicial power. Prof. Paul Bator observed in testimony before a Senate subcommittee last year: "The essence of that compromise was an agreement that the question of access to the lower federal courts as a way of assuring the effectiveness of federal law should not be constituted as a matter of constitutional principle, but rather, should be left a matter of political and legislative judgment to be made from time to time in the light of particular circumstances."

The power of Congress to define entirely the jurisdiction of lower federal courts is well settled. Writing for the Court in Lockerty V. Phillips, 319 U.S. 182 (1943), Chief Justice Stone stated: "Article III left Congress free to establish inferior federal courts or not as it thought appropriate. It could have declined to create any such courts, leaving suitors to the remedies afforded by state courts with such appellate review by this Court as Congress might prescribe." Justice Harlan in *Glidden Company* v. *Zdanok*, 370 U.S. 530 (1962), observed: "The great constitutional compromise that resulted in agreement upon Article III, Section 1, authorized but did not obligate Congress to create inferior federal courts." More recently, in 1973, Justice White, in *Palmore* v. *United States*, 411 U.S. 389, maintained that the "decision with respect to inferior federal courts, as well as the task of defining their jurisdiction, was left to the discretion of Congress."

It is little wonder that the Supreme Court specifically upheld the power of Congress to withdraw, through the Norris-LaGuardia Act of 1932, federal court jurisdiction to issue injunctions in labor disputes. *Lauf* v. *E. G. Shinner & Company*, 303 U.S. 323 (1938). In the context of 149 years of constitutional history, it could hardly have done otherwise.

It cannot be assumed that the framers of the Constitution isolated their careful consideration and drafting of the exceptions clause from the broader issue of the role of Congress in shaping the exercise of the federal judicial power. To the contrary, the broad power of Congress to establish exceptions and regulations to the appellate jurisdiction of the Supreme Court would appear to be a necessary function related to its power respecting the establishment of inferior federal courts.

### RECENT STATEMENTS REINFORCE A BROAD INTERPRETATION

Prof. Herbert Wechsler concluded in 65 Columbia Law Review 1001 (1965):

"There is, to be sure, a school of thought that argues that 'exceptions' has a narrow meaning, not including cases that have constitutional dimension; or that the supremacy clause or the due process clause of the Fifth Amendment would be violated by an alteration of the jurisdiction motivated by hostility to the decisions of the Court. I see no basis for this view and think it antithetical to the plan of the Constitution for the courts—which was quite simply that the Congress would decide from time to time how far the federal judicial institution should be used within the limits of the federal judicial power; or stated differently, how far judicial jurisdiction should be left to the state courts, bound as they are by the Constitution."

Relatively recent statements by members of the Supreme Court reinforce a broad interpretation of congressional power under Article III. In *National Mutual Insurance Company* v. *Tidewater Transfer Company*, 337 U.S. 582 (1949), Justice Frankfurter, dissenting, observed that "Congress need not establish inferior courts; Congress need not grant the full scope of jurisdiction which it is empowered to vest in them; Congress need not give this Court any appellate power; it may withdraw appellate jurisdiction once conferred and it may do so even while a case is sub judice."

Also in 1949 Justice Roberts, writing in 35 American Bar Association Journal 1, proposed an amendment to the Constitution to vitiate the exceptions clause power of Congress, declaring, "I do not see any reason why Congress cannot, if it elects to do so, take away entirely the appellate jurisdiction of the Supreme Court of the United States over state supreme court decisions." Justice Roberts was appalled at that prospect, but he did not doubt its possibility.

In *Glidden* Justice Harlan, in an opinion joined by Justices Brennan and Stewart, affirmed *McCardle*: "Congress has consistently with that article [Article III] withdrawn the jurisdiction of this Court to proceed with a case then sub judice. *Ex parte McCardle*; its power can be no less when dealing with an inferior court." In his dissenting opinion Justice Douglas objected to this acceptance of *McCardle*. "There is a serious question," Douglas wrote, "whether the *McCardle* case could command a majority view today." While this statement is cited sometimes to cast doubt on *McCardle*'s continued vitality, it is just as frequently overlooked that by 1968 Justice Douglas had changed his mind. In *Flast* v. *Cohen* he maintained: "As respects our appellate jurisdiction, Congress may largely fashion it as Congress desires by reason of the express provisions of Section 2, Article III. See *Ex parte McCardle*. . . ." 392 U.S. 83, 109 (1968).

The simple incantation of the phrases "supremacy clause" or "equal protection clause" should be insufficient to resolve the constitutional question of legislation enacted under the authority of the exceptions clause unless, of course, it is supposed that uniformity is the supreme constitutional mandate, in which case the matter then is settled by definition. Is the supremacy clause or equal protection of the law violated by a congressional decision to permit state supreme courts to be the courts of final appeal regarding state statutes and executive actions on a particular subject?

In this context it is instructive to consider S. 481, introduced in the 97th Congress by Jesse Helms and John East. Of all the current proposals for congressional exercise of the exceptions clause, this is by far the most formidable. An earlier version was twice passed by the Senate during the previous Congress, and congressional observers consider it likely that by one parliamentary procedure or another the legislation again will be brought to the Senate floor this year. It therefore can be considered the paradigm, for good or ill, of the exceptions process.

It provides, in part, that:

"[T]he Supreme Court shall not have jurisdiction to review, by appeal, writ of certiorari, or otherwise, any case arising out of any state statute, ordinance, rule, regulation, or any part thereof, or arising out of any act interpreting, applying, or enforcing a state statute, ordinance, rule or regulation, which relates to voluntary prayers in public schools and public buildings.

"For purposes of this section, the term 'voluntary prayer' shall not include any prayer composed by an official or employee of a state or local governmental agency."

S. 481 does not attempt either to "overturn" or to "freeze into the Constitution" the Supreme Court's opinion in *Engel* v. *Vitale*, 370 U.S. 421 (1962), striking down the New York State Board of Regents' prayer. Government authorized prayers would remain within the Court's purview. The Court, however, would be prohibited from extending its past holdings to strike down a state practice in which students are permitted to recite prayers they themselves had composed or selected.

Nor would S. 481 affect the power of federal courts to protect individual rights related to the free exercise of religion. Allegations of coercion could still be heard and relief from involuntary activities could still be sought in federal court. S. 481 would effect only a realignment between the federal and state governments respecting the establishment clause and then only in regard to a single issue: voluntary prayer. It can hardly be argued that uniformity of state practice concerning this issue was part of the "constitutional plan" intended by the framers of the First Amendment, especially since five of the states that ratified the Constitution had established, tax-supported churches at the time. Prof. Raoul Berger has written that this legislation "merely seeks to restore self-rule to the states with respect to school prayers—an autonomy reserved to the states from the very beginning." 1980 Wisconsin Law Review 801.

The question is not whether we approve that particular bill or others patterned after it. The issue is whether that sort of legislation would be a valid exercise of the exceptions clause. Everything indicates that it would be. Everything, that is, except the unwillingness of some people to accept any limitations on the authority of the Supreme Court.

The Court's preservators have been more protective than the Court itself. No Supreme Court decision has concluded that the language of the exceptions clause means anything less than it says—that Congress possesses plenary power to make exceptions to and regulations of the appellate jurisdiction of the Supreme Court. Nor has any decision of the Court sought to amend Article III by providing that "notwithstanding the provisions of Section 2, Congress shall make no exceptions to the appellate jurisdiction of the Supreme Court which affects the Court's ability to enforce the equal protection of the laws, or preserve the supremacy of its own decisions, or protect its essential role in the constitutional plan."

The Court has recognized the authority of Congress in an unbroken line of opinions, of which McCardle was one consistent part. McCardle may be old, but as recently as 1962 it was found by the Court in Glidden still to be good law. The historical fact that this power has been infrequently used does not mean it has ceased to exist. There is no constitutional doctrine of atrophy.

Congressional power under the exceptions clause is itself an important aspect of the constitutional plan for the Supreme Court designed in Article III. When the Court acts, in the words of Prof. Wallace Mendelson, "to impose extraconstitutional policies upon the community under the guise of interpretation," the Court highlights the wisdom of the founding fathers in reserving those issues to the states. Rather than resolving difficult legislative problems, judicial intervention into abortion, busing, school prayer, as well as other subjects, has inflamed public debate and seriously altered American electoral demographics during the decades of the 1970s and 1980s.

Prof. Louis Lusky has observed that the Court's new role rests on the "assertion of the power to revise the Constitution, bypassing the cumbersome amendment procedure prescribed by Article V," and on the "repudiation of the limits on judicial review that are implicit in the orthodox doctrine of *Marbury* v. *Madison*," 6 Hastings Constitutional Law Quarterly 403 (1979). As Professor Hart suggested in his article, the question of congressional power under the exceptions clause is related to the role of the Supreme Court in the constitutional plan, and that, as Prof. Henry Abraham observed, "is not a question of judicial institutional capacity; it is rather one of judicial constitutional legitimacy."

In the February, 1982, issue of this Journal (page 159), Robert W. Meserve argues that the limitations on congressional power under the exceptions clause are so encompassing that one is left with the distinct impression that Congress may act to make only the most noncontroversial, technical amendments of the Court's jurisdiction. The article, however, fails to explain why, if this is so, the Court itself has used the broadest language in describing congressional power, or why defenders of the Court's prerogatives of no less stature than John Marshall viewed the provision as empowering Congress to diminish the jurisdiction of the Court as far as necessary to protect the "liberty of the people."

The article maintains that Congress "does not have authority . . . to deny the only remedy utimately effective to right constitutional wrongs." Why this is so is not entirely clear. Section 5 of the 14th Amendment provides that "Congress shall have power to enforce, by appropriate legislation, the provisions of this article." Professor Berger's book, Government By Judiciary, demonstrates adeptly that the authors of the 14th Amendment were not confident of the Court's ability to enforce the amendment. As Justice Brennan maintained in *United States* v. *Guest*, 383 U.S. 745 (1966), "the primary purpose of the amendment was to augment the power of Congress, not the judiciary."

It would seem reasonable that this enforcement power would include at the very least the power to determine what is an adequate or proper federal remedy. The fact that state and federal court judges may disagree over the utility of a certain remedy in particular circumstances would appear to violate the Constitution no more than the fact that federal judges may and often do disagree over the proper remedy when considering the same set of circumstances.

*United States* v. *Klein*, 13 Wall. 128 (1871), is cited in the Meserve article to indicate "that the court will not allow legislation to undermine the fundamental judicial protection of individual rights." This broad interpretation is accurate only in the sense that *Klein* stands for the proposition that the court will not allow Congress to use the exceptions clause to alter the proceedings of the court in favor of a particular class of parties.

In *Klein* the Court for the first and only time invalidated legislation enacted under the exceptions clause. Klein sought indemnification for property seized during the Civil War, in reliance on prior Supreme Court and Court of Claims decisions that a presidential pardon would make him eligible for recovery. While the case was pending before Court, Congress amended the Judicial Expenses Act of 1871 to provide that presidential pardons, like the one Klein had received, were not to be considered sufficient proof of loyalty to enable recovery. The act also provided that the facts recited in the pardon would be conclusive evidence of disloyalty, and at that point the jurisdiction of the court should cease, and the suit must be dismissed.

After recounting this would-be effect of the statute on a judicial proceeding, Chief Justice Chase asked, "What is this but to prescribe a rule for the decision of a cause in a particular way?" The Court struck down the statute as an impermissible invasion of the judicial process to attempt to determine the outcome of litigation in favor of a particular class of litigants. The Court said, "It seems to us that this is not an exercise of the acknowledged power of Congress to make exceptions and prescribe regulations to the appellate power."

It has been suggested that this decision somewhat contradicts or casts doubt on *McCardle*. The Court in *Klein*, however, did not see it that way. It again affirmed a broad power of Congress under the exceptions clause:

"Undoubtedly the legislature has complete control over the organization and existence of that court [the Court of Claims] and may confer or withhold the right of appeal from its decisions. And if this act did nothing more, it would be our duty to give it effect. If it simply denied the right of appeal in a particular class of cases, there could be no doubt that it must be regarded as an exercise of the power of Congress to make 'such exceptions from the appellate jurisdiction' as should seem to it expedient."

### A RULE FOR GOVERNMENT OF COURTS AND LEGISLATURE

Ten years after Klein, the Court in The 'Francis Wright', 105 U.S. 381 (1881), upheld a congressional limitation of its jurisdiction in admiralty cases to questions of law. Chief Justice Waite wrote that "while the appellate power of this court under the Constitution extends to all cases within the judicial power of the United States, actual jurisdiction under the power is confined within such limits as Congress sees fit to prescribe. . . . What those powers shall be, and to what extent they shall be exercised, are, and always have been, proper subjects of legislative control."

The Meserve article also argues that "remedy-curtailing legislation puts unfair pressure on state judges." Because they are subject to election, state judges may be put to the "great temptation" of having to choose between their duty to enforce the Constitution and their judicial careers. If this is so, the question arises: Is it not already true today whenever state judges are called on to reach a decision that may be unpopular? This is an astounding argument. One hardly knows whether it shows less faith in the democratic process or in the state judiciaries.

In light of the clear intentions of those who framed Article III and with an eye to the unbroken chain of Supreme Court decisions over 186 years affirming the literal meaning of that article, it is no wonder that so many members of Congress view the Court's decisions on the controversial subjects of abortion, busing, and school prayer as symptomatic of a self-articulated and overextended role for the federal judiciary. A growing number of members of Congress share Professor Wechsler's view that the plan of the Constitution is for Congress to "decide from time to time how far the federal judicial institution should be used." Hear-

ings before the Senate Judiciary Committee during the 97th Congress on legislative restraints on the judiciary indicate that in the minds of some senators the time for a re-examination of the proper role of the federal judiciary may be rapidly approaching.

The possibility of congressional exercise of its authority under the exceptions clause may be enhanced by the current political environment. Under the Reagan administration there has been a historic change of direction in the federal government, and not just in terms of the national budget. The relationship between Washington and the states appears to be in the process of redefinition, and the outcome is far from clear at this point.

As the Congress acts to redress the eroded administrative prerogatives of the states, the climate likely will become more favorable for re-examining the relationship between state and national judiciaries. If that happens, one can argue that the use of congressional authority under the exceptions clause would not be the best solution to problems involving the federal judiciary, but one cannot credibly contend that the authority does not exist.

In exercising this power, Congress should heed the advice of Chief Justice Marshall to provide exceptions that "go as far as the legislature may think proper for the interest and liberty of the people." In firmly establishing congressional power under the exceptions clause and in providing a solid foundation for judicial review, Marshall fully appreciated what he wrote in *Marbury v. Madison:* "The framers of the Constitution contemplated that instrument as a rule for the government of courts, as well as of the legislature."

(Carl A. Anderson, a former legislative assistant to Senator Helms, is now counselor to the undersecretary of the Department of Health and Human Services. Responsibility for the views expressed is that of the author and not the department.) ●

## LETTER FROM WEST AFRICA

● Mr. HAYAKAWA. Mr. President, my friendship with Warren Robbins, the Director of the National Museum of African Art, dates back some 30 years when I became interested in the art of West Africa. Over the years I have come to learn a great deal about Africa through her art which, to quote Warren, expresses the African's "innate sense of beauty." African art has not only been a major element of Africa's religious, political, and cultural heritage, but has also influenced Western World artists including Pablo Picasso, with its mystic and timeless qualities.

Recently Warren returned from a 7-week journey through the West African countries of the Cameroon, Senegal, Liberia, Sierra Leone, Niger, Ghana, Nigeria, and the Ivory Coast. In his travelog Warren makes several observations offering an insight about the close relationship between art and politics. And that is why I believe, specifically, in the importance of one unique program of the Smithsonian Institution. It is a part of an international cooperation with these African countries to establish a museum system providing for art to be returned to its place of origin. A strong museum system in these countries not only insures the safekeeping of art for future generations but allows for touring exhibits in which Americans—and for that matter, people worldwide—can share in a taste of African culture. And often it is by sharing in one another's culture that we begin to understand and communicate.

Warren has not only expended much personal effort in developing a museum system in West Africa, but he has also been involved in the repatriation of art which has been removed from Africa. In fact, during this trip he was honored for his assistance in the repatriation of the prized Afo-A-Kom statue to Cameroon in 1973.

Mr. President, I commend to my colleagues his letter from West Africa for its insight into the cultural and political value of African art and ask that it be printed in the RECORD.

The letter follows:

LETTER FROM WEST AFRICA TO FRIENDS AND COLLEAGUES FROM WARREN ROBBINS, FOUNDING DIRECTOR, NATIONAL MUSEUM OF AFRICAN ART—JANUARY-FEBRUARY 1982

DEAR FRIENDS: I finally made my long intended journey to Africa—one of the most moving and fast moving experiences of my life—seven countries in just under seven weeks. I had decided not to mail out the usual postcard to all those friends and colleagues to whom I wanted to send greetings, but instead to write a brief travelogue to send upon my return.

All told, I traveled some 29,600 miles in a not very economical itinerary necessitated by program scheduling possibilities at the various American Embassies which hosted my visits. Thus I began in Cameroon some 3,000 miles south of Senegal which I had passed through on my way there only to have to double back to as the second stop of my trip. Thence to Liberia, Sierra Leone, Niger (Ivory Coast twice briefly in transit to and from Niger), Ghana and Nigeria.

After having been involved in the repatriation of the sacred Afo-A-Kom statue to Cameroon in 1973, I returned there this time to something of a hero's welcome. My visit was preceded by newspaper reports of my coming and by a video cassette recording produced by the VOA in which Renee Poussaint discussed with me the subject of "The African Heritage at the Smithsonian". The half-hour program was seen by almost everyone who had a TV set in this single network country and Renee did an excellent job as an interviewer, to illuminate the growing recognition in America of the importance of African art, the goals and activities of the Museum, and my own ideas and ideals in having established, now by Congressional Act, a National Museum under the Smithsonian. Very well received, the program provided a high recognition factor for me, also in the several other countries where it was shown in either English or French versions. In Cameroon there were two half-hour radio interviews as part of many hours discussion of traditional culture occasioned by my visit.

In the eight years since the Afo-A-Kom statue was returned to the Fon (King) of the Kom people in his mountain (Shangri-la like) compound, the central government of Cameroon, largely Moslem, has come to recognize the importance to the nation-building process of reawakening interest in traditional culture and preserving art works as manifestations of it. They are even putting out a journal on traditional culture (to be called Afo-A-Kom) for the introductory issue of which they have asked me to do an article. As further evidence of the government's support, it is providing funds for the building of a proper shrine edifice at Kom. Originally the government had not wanted the statue to go back to Kom where it would enhance the authority of the regional leader and undermine detribalization efforts in behalf of strong central authority. Fortunately we insisted and the ultimate significance of America's return of the Afo-A-Kom statue lays not so much in its particular circumstances, as in the fact that our action spurred on a modern African government toward recognition of the importance of preserving such art, previously all but overlooked (and sometimes swept under the rug as a vestige of the erroneously understood "primitive" past) in the rapid process of modernization.

Following two days of meetings and programs in the capital city (including a lecture at the American Cultural Center on "The Impact of Africa on Modern Culture"), I rented a car (brand new four wheel drive, air conditioned Toyota, maiden voyage) and driver and, accompanied by a representative of the Cultural Ministry (who had studied for eleven years in America—MA, Art History, Michigan State) set out on a trip through the beautiful Cameroon Highlands—as beautiful an area as one could find in the world—to call upon the Fons of Kom, Bafut, Bali, Babanki and the Sultan (because he's Moslem in contrast to the others) of Foumban. There are 17 of these regional kingdoms, the rulers of which are very much like European feudal lords of yore, but subordinate now to the central government of Cameroon and, like the Pope, as Stalin pointed out, with no divisions. But they still have a great deal of socio-political authority among their people and continue to be greatly revered.

I was awaited at Kom by the Fon and about 70 of the leaders of his 90,000 population realm. In a special ceremony I was inducted into the Chua Kom, the seven man inner council of the Fon, and accordingly robed to indicate my status as a "noble of the realm". We stayed overnight in the King's compound—an adventure in itself too intricate to describe here, but which I will write about in an article I am preparing for publication, "African Odyssey: Travel and Travail in the Bright Continent".

From Cameroon, I proceeded to Senegal where for a week I was a guest of the new president, Abdou Diouf, successor of Senegal's beloved first president Leopold Senghor (who had visited the Museum on three separate occasions during his visits to America). In Senegal I visited all of the principal cultural institutions: the National Museum of African Art, one of the best in Africa; the Mudre Afrique Dance School which combines classical training with African rhythm and movement—they danced in Washington several years ago under our Museum's auspices; the 8,000 student University of Dakar where I lectured; the tapestry workshop at Thies where spectacular weavings are made in the typical warm colors of Africa and with traditional African themes. We displayed about 30 such tapestries in an exhibition in the Museum in 1980. They are certainly on a par with those from the world renowned French tapestry

workshop at Aubusson. For these rich cultural resources, Senegal, as Africa's leading intellectual force can be justly proud. I also visited the fortress island of Goree in the Harbor of Dakar from which hundreds of thousands of slaves were shipped to America. Standing in the bare shell and unfinished rooms of this old building, it is difficult to conceive of the inhuman treatment of fellow human beings by Europeans and Americans as it was described by the Curator who was also quick to point out the complicity of African slave traders themselves without whom there would have been no slave trade.

Next came Liberia, where valiant but difficult efforts are being made by cultural officials to compete for government attention in order to establish a proper museum system. They need much help and responded warmly to the interest of our Museum that my presence in Liberia represented.

I must say that in each of the countries visited, I was extemely impressed by the high calibre of American representatives—Public Affairs Officers and Cultural Attachés of the International Communications Agency (formerly, and to become again USIA). They were all very supportive in their direct efforts to strengthen indigenous African cultural institutions. A group of highly knowledgeable, dedicated foreign service officers, with very few exceptions.

Sierra Leone proved to be a most charming country, if like Liberia, Senegal and other countries, suffering severe economic hardships (Cameroon, like Ivory Coast, steadily building prosperity, however). There I was privileged to call upon President Siakka Stevens who had visited the Museum on the occasion of our Sierra Leone exhibition in 1976 and also had the National Dance Company of Sierra Leone perform in my honor at a lovely dinner party tendered by Ambassador Theresa Healy. I had seen the group some years ago when it performed in Washington. To President Stevens, I presented a bottle of I.W. Harpers in the spirit of Harry S. Truman who once had said, "A little libation now and then is a good thing." The President accepted it in the same spirit and I had made a small in-road in the scotch monopoly on the drinking tastes of contemporary Africans.

The two things that struck me the most about Africa was the abounding beauty, not only of its natural environment but of its people and their great warmth, gentleness and genuine friendliness. I felt this everywhere I went, even in areas such as Ghana where increasing political differences with America are to be anticipated.

Each country was different in topography and color—the lush forest green of the coastal countries; the red earth of Cameroon, from the clay of which all of the village houses are built; the omnipresent desert brown of Niger and areas of Senegal. A sense of color is everywhere in Africa, particularly in the village market, striking in the very bright stripes and patterns of mattresses piled high out of doors, in the terry cloth robes and towels, in the blankets and wall hangings woven in intricate patterns on hand looms, and in the clothing of the people which is radiant and variegated. African women particularly have an elegance in their clothes (and carriage) that is not to be fully appreciated until one encounters it in their home culture. Coming out of a modest, thatched roofed, farm house, will emerge—on her way to work in the fields—a woman in full length dress of rich pattern and color, with an elegance that would not be seen in this country other than at a reception or other dressy evening function. But there she is doing her farming, and her dress is not out of place. How one looks is important in Africa where people have an innate sense of beauty.

In Niger, a largely desert country, French influence is pronounced, as it is in Senegal, Ivory Coast and a goodly portion of Cameroon. But less so then Moslem culture which, having been in Africa for centuries, is perhaps the strongest characteristic—beyond indigenous African cultural patterns—to be perceived there. (For touring Europeans, in which category Africans include Americans, French culture is to be directly experienced in the string of first class hotels that the French have built all over Africa, in several of which I stayed. Thus, except for the hassle (literally) of transportation, travel in Africa need not involve too much travail. I recommend the experience if you don't find hot weather debilitating.)

Ghana was a sad experience for one such as I, who has had a particular affinity for that country and culture from the time of my very first acquaintance with Ghanaians and with the art of the area. Choosing to take political and economic paths (allying themselves with Libya) unlike those of other countries which, though struggling, are making some headway toward modern viability, Ghana, with its industry stagnating, seems to be heading back toward subsistence farming, its national mind most recently filled with the paranoid idea (announced over the government radio) that invasion by the United States, England and Nigeria was imminent! Such is the need for external enemies as a means of keeping the people's minds off their plight and such is the plight of this country which had so much potential.

In Nigeria, where there is plenty of (oil) money to finance the push to modernity, we find superhighways, high-rise buildings, port facilities and automobiles, far beyond the country's capacity to absorb them—at least in Lagos, a city trebled in size since independence, vainly and erratically trying to gain control of its too rapid development. Its problems seem almost insurmountable.

In the city of Ife, a couple of hours away by superhighway, we find a university of 12,000 students, with the most modern building—an entire full blown campus that emerged in 1968 and has since been added to. Ife, where very significant 11th to 13th century terracottas and bronzes have been discovered during the last several decades, gives a hint of many more archeological discoveries to come, that will lead toward the reconstruction of both the history of Africa and our ideas and misconceptions concerning it.

The government of Nigeria has developed the most advanced museum system anywhere to be found in Africa. The National Museum in Lagos has a collection of some 12,000 objects in its reserves and displays outstanding examples reflecting "2,000 Years of Nigerian Art". A taste of this collection Americans have had from the touring exhibit of that name that was shown at the Corcoran with the Museum's co-sponsorship.

But aside from Nigeria, Senegal and Niger which has a remarkable, Smithsonian-in-miniature (a combination museum of indigenous culture, archeology, paleontology and a zoo), the museum situation in West Africa is deplorable, making all the talk of repatriation of objects that one hears in Africa utterly meaningless at this stage of the game. There is little or no control, security, proper systems of conservation and display; very few trained staff, no general code of museum ethics; and given the urgent priorities of material development, little money to devote to the development of museum systems in each country.

The Museum of African Art, in keeping with long range Smithsonian policies for international cooperation in the preservation of the human heritage, hopes to develop in the coming years on-going working relationships with certain of the museums in Africa, involving both the exchange of personnel and of art for loan exhibitions. The Smithsonian hopes thereby to help strengthen indigenous African efforts to foster the preservation of Africa's cultural patrimony.

The American Ambassadors themselves in each of the countries I visited showed much interest in such initiative and are ready to support them in any way possible. Ambassadors Hume Horan in Cameroon, Charles Bray in Senegal, William Swing in Liberia, Theresa Healy in Sierra Leone, Nancy Rawls in Ivory Coast and Tom Smith in Ghana (our Ambassadors to Niger and Nigeria were not at Post) as well as Public Affairs and Cultural Officers all hosted dinners or luncheons on the occasion of my visits to give me the opportunity to become better acquainted with the leading cultural and academic people in their countries, and they with me. The exchanges were most fruitful, strengthening bonds of trust for future working relationships.

In the couse of my trip I lectured frequently not only to general audiences at American Cultural Centers and students at universities, but to groups of cultural officials and museum professional staffs (75 in Ghana, 25 in Nigeria, 40 in Liberia, smaller seminars in Cameroon, Niger and elsewhere). Embassy officials also set up opportunities for me to meet with key government officials at all levels who welcomed America's proferred opportunities for intermuseum cooperation. The response to my remarks was uniformly positive even though Africans are extremely troubled about the problem of repatriation of objects removed from Africa during the last centuries. The facts of the matter are however, that if such objects had not been removed (by whomever and whether legitimately or illegitimately) they simply would not exist today. And today, with the few exceptions noted above, there are no properly secure Museum systems for such objects if they were returned. Having been responsible for the return of two important objects to Africa when the circumstances warranted it, I could speak from a position of some credibility. The long range responsibility to assemble and return representative collections of traditional African Art to Africa remains a question to be resolved in the future.

This brief report, though perhaps better than a postcard, hardly does justice to the many rich insights, ideas and impressions I have gained from my trip. Nevertheless I close, with best—if slightly belated—wishes from Africa.

With much appreciation of your friendship and support these past years, I look forward to seeing each of you personally before too long, as opportunities present themselves.●

## OBSERVATIONS OF ALASKA

● Mr. MURKOWSKI. Mr. President, Alaska is as unfamiliar to many Americans as is Outer Mongolia. Myths and misperceptions about my home State abound. For years people thought that Alaska was a frozen wasteland whose inhabitants lived in igloos and used dogsleds. With the discovery of significant amounts of oil in Alaska, the old misperceptions have been replaced by new ones. The newest misperception is that Alaskans are rolling in enormous amounts of oil wealth. Nothing could be farther from the truth. When Alaska was being considered for statehood, Members of Congress were concerned that Alaska did not have the economic and resource base to be a viable State. With the current influx of oil revenues, that is starting to change for the better. These oil revenues, however, are needed to remedy longstanding social and economic problems in the State.

For example, Alaska has less than half the national average of hospital beds per capita. The State has 0.64 nursing home beds per 100,000 persons, compared to the national average of 4.89. Seventeen percent of Alaska's homes are substandard or overcrowded, as opposed to a national average of 7.7 percent. The U.S. Environmental Protection Agency estimated in 1980 that it would require per capita expenditures of $783 to bring Alaska's publicly owned sewage treatment works up to secondary treatment standards. The national average per capita cost was $128, and no other State had per capita costs over $300. Alaska shares the dubious honor with Mississippi of having the fewest physicians per 100,000 residents—78. This compares with a national average of 163 per 100,000 residents. Less than 1 percent of Alaska's area is accessible by road.

I am encouraged that members of the national press are starting to recognize Alaska's problems as well as its greatness. An article by Richard Reeves, a nationally syndicated columnist, recently came to my attention. Mr. Reeves has been traveling in my State. His article points out the contrast between Alaska's oil potential, and its serious economic and social needs. I encourage my colleagues to read this article. Mr. President, I ask that Mr. Reeves' article be printed in full at this point in the RECORD.

The article follows:

[From the Anchorage (Alaska) Daily News, May 26, 1982]

ALASKA: AN OIL-RICH, AMERICANIZED, THIRD WORLD COUNTRY

(By Richard Reeves)

JUNEAU.—"People in the Lower 48 think we're ripping them off, I know that," said Gov. Jay Hammond. "They don't understand that we have enormous needs here. Poverty here is worse than in Appalachia. Have you seen Bethel?"

Yes, I had. When I was there, in Western Alaska 300 miles from Russia, I had to keep reminding myself that I was in the United States.

"People think we want gold-plated plumbing," Hammond said as we talked about his state's oil profits. "But a lot of places in Alaska don't even have outhouses."

I know, I said, I saw. In Bethel and a lot of other places they use buckets. "Honey pots." The ground, under a few inches of dusty roads and small building lots laid over mushy tundra, is frozen solid all year long.

In Bethel, white Americans and Eskimos are paying several hundred dollars a month to live in the barge containers that bring supplies up from Seattle. The steel boxes—8 feet by 12 feet by 24 feet—have windows and doors cut into them and are plunked down on 55-gallon oil drums. That's housing in the seventh-largest community (population 10,671) in Alaska.

There are no roads into or out of Bethel. It can only be reached by plane—Anchorage is more than 400 miles away—or by boat after the Kuskokwim River thaws in May.

That is the thing to remember about our largest, coldest state: Alaska has no roads.

With the exception of Anchorage and Fairbanks, there is no way to get from one place to another without an airplane. That is why more than 10,000 of the 400,000 people in the state are licensed pilots.

Alaska is a developing country. It is not really the last American frontier—they are watching "The Dukes of Hazzard" in Bethel and villages up the river—as much as it is an oil-rich Americanized Third World country.

Alaska even has the xenophobic and some of the xenophobic laws of the Third World. On construction projects employing more than 10 people, 95 percent of the employees must be Alaska residents. And, under a law now being challenged before the U.S. Supreme Court, millions of dollars of the state's oil revenues would be divided among residents on the basis of how long they have lived in the state. (The constitutional challenge is based on the premise that the rights of Americans are rooted in more fundamental concepts than how long people have lived at their current addresses.)

The oil money—Alaska produces one-eighth of American oil—has distorted national perceptions of the state and Alaskans' perception of themselves and their own reality. Folks up here, most of whom live in relatively prosperous and stereotypical American places like Anchorage, have eliminated the state income tax and other taxes to live off oil revenues and oil taxes.

"Too many Alaskans have been seduced into believing the oil money will keep coming in forever," said Hammond, a conservative and conservationist Republican who opposes tax breaks for development and would like to keep the state something like the wild place he came to as a bush pilot 35 years ago. "I was against eliminating taxes and becoming dependent on oil. Inevitably, the oil will run out or there will be a change in the pricing structure."

"We could have a catastrophe here," said Hammond, who will leave office at the end of the year after two terms.

Alaska, Hammond seems to understand quite well, is not as rich and blessed as many other Alaskans believe it is. Like any developing country with one great rich resource, it must visualize the day when that resource is gone or worthless.

If it doesn't, the whole state will have an economy like Bethel's—that poor place produces about $10 million a year from its one industry, fishing, and gets $16 million a year in aid from Juneau and $27 million a year from Washington. The perception of wealth, ironically, could one day turn Alaska into a true welfare state.●

## INTERNATIONAL LINER SHIPPING POLICY

● Mr. PACKWOOD. Mr. President, the administration has recently announced the first phase of its maritime promotional policy, much of which I heartily support. At the same time, a number of international regulatory issues which have a significant impact on the U.S. merchant marine and domestic commerce generally, remain to be settled. In the coming weeks, the Department of Transportation and the State Department will continue to discuss with foreign nations how these problems may be resolved.

Even while we in Congress are streamlining the Federal role in the ocean shipping industry, others are moving to restrict competition, to artificially allocate cargoes, to replace economic decisions with social and political mandates, and free enterprise with bureaucracy. I am talking about the United Nations Code of Liner Conduct and certain unilateral reservations of cargo by developing nations. Less worrisome, but of some concern, are indications of increased regulation by the European Economic Community. I am opposed to the UNCTAD code. It will hurt shippers, carriers, and ultimately consumers who would pay for the higher transportation costs of imports. I am opposed to cargo reservation schemes if they render our exports noncompetitive. As I stated recently, as an alternative to the UNCTAD code we can and should begin to carefully craft bilateral agreements with individual trading partners. In this way, the United States can best protect the interests of our importers, exporters, consumers, and the health of our merchant marine.●

## ORDER OF PROCEDURE

Mr. BAKER. Mr. President, if no other Senator seeks recognition at this time, I am prepared to proceed with a number of routine matters that have been called to my attention.

Is the Senator from West Virginia, the minority leader, prepared to do so?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. Mr. President, I have a number of requests to make. I believe they have all been cleared with the distinguished minority leader. I will state them now for his consideration and for that of the Senate.

## ORDER FOR STAR PRINT—S. 2664

Mr. BAKER. Mr. President, I ask unanimous consent that S. 2664 be

star printed to reflect the following change, which I send to the desk.

There being no objection, the bill was ordered to be star printed, as follows:

S. 2664

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That (a) title III of the Congressional Budget Act of 1974 is amended by inserting after section 301 the following new section:

"LIMITATIONS ON TOTAL BUDGET OUTLAYS

"SEC. 301A. (a) IN GENERAL.—For any fiscal year beginning after September 30, 1982, the amount of total budget outlays set forth in any concurrent resolution on the budget may not exceed an amount equal to the greater of—

"(1) the difference between—

"(A) an amount which bears the same relationship to the gross national product of the United States at the close of such fiscal year as the total budget outlays for the preceding fiscal year bears to the gross national product of the United States at the close of such preceding fiscal year, and

"(B) an amount which is equal to one percent of the gross national product for such fiscal year; or

"(2) 18 percent of the gross national product for such fiscal year.

"(b) For purposes of this section, the gross national product shall be estimated by the Director of the Congressional Budget Office and reported by the Director, from time to time, to the Committees on the Budget of the House of Representatives and the Senate.".

(b) Unless two-thirds of the whole number of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

(c) Section 1(b) of the Congressional Budget and Impoundment Control Act of 1974 is amended by inserting after the item section 301 the following new item:

"Sec. 301A. Limitations on total budget outlays.".

## ENDANGERED SPECIES ACT

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 6133.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved,* That the House disagree to the amendments of the Senate to the bill (H.R. 6133) entitled "An Act to amend the Endangered Species Act of 1973", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

*Ordered,* That Mr. Jones of North Carolina, Mr. Breaux, Mr. Studds, Mr. Bowen, Mr. Snyder, Mr. Forsythe, and Mr. Emery be the managers of the conference on the part of the House; and as additional managers solely for consideration of section 4 of the House bill and modifications committed to conference: Mr. Bonker and Mr. Leach.

Mr. BAKER. Mr. President, I move that the Senate agree to the House request for a conference and that the Chair be authorized to appoint conferees on behalf of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. STAFFORD, Mr. CHAFEE, Mr. GORTON, Mr. RANDOLPH, and Mr. MITCHELL conferees on the part of the Senate.

## ORDER FOR STAR PRINT—H.R. 5890

Mr. BAKER. Mr. President, due to a printing error at the Government Printing Office, I ask unanimous consent that H.R. 5890 be star printed to reflect the following change which I send to the desk:

The change is as follows:

Beginning on line 13, after the word "acquisition", insert "$110 million".

The PRESIDING OFFICER. Without objection, it is so ordered.

## NATIONAL NCO/PETTY OFFICER WEEK

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed now to the consideration of House Joint Resolution 518, designating National NCO/Petty Officer Week.

The PRESIDING OFFICER. The clerk will state the joint resolution by title.

The assistant legislative clerk read as follows:

A House Joint Resolution (H.J. Res. 518) to designate the week commencing with the fourth Monday in June 1982 as "National NCO/Petty Officer Week".

The PRESIDING OFFICER. Without objection, the joint resolution will be considered as having been read the first and second times by title.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being on objection, the joint resolution (H.J. Res. 518) was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. BAKER. I move to reconsider the vote by which the joint resolution was agreed to, Mr. President.

Mr. THURMOND. I move to lay that motion on the table, Mr. President.

The motion to lay on the table was agreed to.

## ORDER FOR CERTAIN ACTION DURING RECESS

Mr. BAKER. Mr. President, I ask unanimous consent that, until Tuesday, June 29, 1982 at 11 a.m., the Secretary of the Senate be authorized to receive messages from the President of the United States or the House of Representatives, that they be appropriately referred, and that the Vice President, the President pro tempore, or the Acting President pro tempore be authorized to sign all duly enrolled bills and joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDER FOR PRO FORMA SESSION TOMORROW

Mr. BAKER. Previously, I announced, Mr. President, that tomorrow, there would be a pro forma session of the Senate. In order to fully implement that, I ask unanimous consent that when the Senate concludes its business today, it recess until 9:30 a.m., tomorrow, Friday, June 25, 1982; and that immediately upon convening on said day, the Presiding Officer shall, without the transaction of any business or debate, declare the Senate recessed until 11 a.m., on Tuesday next, June 29, 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TIME LIMITATION AGREEMENT—S. 2240

Mr. BAKER. Mr. President, on the flexitime measure, I ask unanimous consent that when the Senate turns to the consideration of S. 2240, a bill to authorize the Federal Government's use of flexible and compressed work schedules for its employees, but not before Tuesday, June 29, 1982, the bill be considered under the following time agreement:

To be 30 minutes on the bill equally divided between Senators STEVENS and EAGLETON, or their designees; 1 hour on an amendment to be offered by the Senator from Colorado (Mr. ARMSTRONG) to the Walsh-Healy Act, and the Contract Work Hours and Safety Standards Act; 30 minutes on a perfecting amendment to be offered by the Senator from Massachusetts (Mr. KENNEDY) to the Armstrong amendment; two committee amendments to be offered and debated out of the time allotted on the bill; that no other amendments in the first or second degree be in order; 5 minutes on any debatable motions, appeals or points of order, if so submitted to the Senate; and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The text of the agreement follows:

*Ordered,* That when the Senate proceeds to the consideration of S. 2240, a bill to authorize the Federal Government's use of flexible and compressed work schedules for its employees, but not before Tuesday, June 29, 1982, debate on an amendment to be offered by the Senator from Colorado (Mr. Armstrong) relative to the Walsh-Healy Act and the Contract Work Hours and Safety Standards Act shall be limited to 1 hour, to be equally divided and controlled, debate on a perfecting amendment to be offered by the Senator from Massachusetts (Mr. Kennedy) to the Armstrong amendment shall be limited to 30 minutes, to be equally divided and controlled, debate on two committee

amendments which shall be offered shall be debated out of the time allotted on the bill, with no other amendments in the first and second degree to be in order, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 5 minutes, to be equally divided and controlled: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee.

*Ordered further*, That on the question of final passage of the said bill, debate shall be limited to 30 minutes, to be equally divided and controlled, respectively, by the Senator from Alaska (Mr. Stevens) and the Senator from Missouri (Mr. Eagleton): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

*Ordered further*, That no amendment not germane be received.

## CALENDAR

Mr. BAKER. Mr. President, there are certain bills on the calendar. If the Senator from California will permit me to finish this wrapup, then I shall be pleased to yield the floor.

Mr. HAYAKAWA. Indeed, I am pleased to do that, Mr. President.

Mr. BAKER. Mr. President, there are certain bills on the calendar today that are cleared for action on this side by unanimous consent. That is Calendar Order Nos. 578, 680, 685, 686, and 687. I inquire of the minority leader if he is in a position to clear part or all of those measures for action by unanimous consent on his side.

Mr. ROBERT C. BYRD. Mr. President, all items named by the majority leader are cleared on this side.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask unanimous consent that the Senate may proceed to consider the items just identified.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MARITIME PROGRAMS OF THE DEPARTMENT OF TRANSPORTATION

The Senate proceeded to consider the bill (S. 2336) to authorize appropriations for fiscal year 1983 for certain maritime programs of the Department of Transportation, and for other purposes, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment, to strike out all after the enacting clause, and insert the following:

That funds are authorized to be appropriated for certain maritime programs of the Department of Transportation for the fiscal year 1983, as follows:

(1) for payment of obligations incurred for operating differential subsidy, not to exceed $454,010,000;

(2) for expenses necessary for research and development activities, not to exceed $16,800,000;

(3) for expenses necessary for operations and training activities, not to exceed $71,013,000, including not to exceed—

(a) $6,516,000 for reserve fleet expenses;

(b) $29,607,000 for maritime education and training expenses, including not to exceed $17,251,000 for maritime training at the Merchant Marine Academy maintained under section 1303 of the Merchant Marine Act, 1936, as amended, $10,668,000 for financial assistance to State maritime academies assisted under section 1304 of the Act, and $1,688,000 for expenses necessary for additional training provided under section 1305 of the Act; and

(c) $34,890,000 for other operations and training expenses.

SEC. 2. Section 615 of the Merchant Marine Act, 1936 (46 U.S.C. 1185), is amended to read as follows:

SEC. 615. Notwithstanding any other provision of this Act, prior to October 1, 1984, an operator receiving or applying for operating differential subsidy under this title may construct, reconstruct, or acquire its vessels of over five thousand deadweight tons outside the United States. Any vessel constructed, reconstructed, or acquired in accordance with this section or section 1610 of Public Law 97-35 and any vessel otherwise constructed, reconstructed, or acquired outside of the United States and documented under the laws of the United States prior to October 1, 1984, shall be deemed to have been United States built for the purposes of this title, section 901(b) of this Act, and section 5(7) of the Port and Tanker Safety Act of 1978 (46 U.S.C. 391a(7)).".

SEC. 3. Section 1103(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(f)), is amended by adding at the end thereof the following new sentence: "No additional limitations may be imposed on new commitments to guarantee loans for any fiscal year, except in such amounts as established in advance in annual authorization Acts.".

SEC. 4. The Secretary of Transportation shall not enter into new commitments to guarantee loans under section 1103(f) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(f) in an amount greater than $2,250,000 during fiscal year 1983, 1984, and 1985: Provided, That not more than $850,000,000 may be committed in any one of those years.

SEC. 5. (a) Section 1104(a)(3) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1274(a)(3)), is amended by inserting after the word "Fund" the words ", or for which related obligations were accelerated and paid by the Secretary,".

(b) Section 1104(h) of such Act (46 U.S.C. 1274(h)) is amended by inserting after the word "acceleration" the word ", assumption,".

(c) The first sentence of section 1105(a) of such Act (46 U.S.C. 1275(a)) is amended by inserting after the word "demand" the following: "(unless the Secretary shall, upon such terms as may in his discretion be provided in the obligations or agreements relating thereto, prior to such demand, in his discretion, have assumed the obligor's rights and duties under said obligations and agreements and shall have made any payments in default)".

(d) Section 1105(b) of such Act (46 U.S.C. 1275(b)) is amended to read as follows:

"(b) In the event of a default under a mortgage, loan agreement, or other security agreement between the obligor and the Secretary, the Secretary may (upon such terms as may in his discretion be provided in the obligations or agreements relating thereto), at his option and discretion—

"(1) notify the obligee or his agent of such default and the assumption by the Secretary of the obligor's rights and duties under said obligation and agreements relating thereto and make any payment in default; or

"(2) notify the obligee or his agent of such default and the obligee or his agent shall have the right to demand at or before the expiration of such period as may be specified in the guarantee or related agreements, but not later than 60 days from the date of such notice, payment by the Secretary of the unpaid principal amount of said obligation and the unpaid interest thereon. Within such period as may be specified in the guarantee or related agreements, but not later than 30 days from the date of such demand, the Secretary shall promptly pay to the obligee or his agent the unpaid principal amount of said obligation and unpaid interest thereon to the date of payment.

The validity of the guarantee of an obligation made by the Secretary under this title shall be unaffected and such guarantee shall remain in full force and effect notwithstanding any assumption of such obligation by the Secretary pursuant to subsections (a) and (b) of this section.".

(e) The first sentence of section 1105(c) of such Act (46 U.S.C. 1275(c)) is amended by inserting after the word "payment" the words "or assumption" and by inserting after "Secretary", the first time it appears, the words ", in his discretion.".

SEC. 6. Section 362(b)(7) of title 11, United States Code, is amended to read as follows:

"(7) under subsection (a) of this section, of the commencement of any action by—

"(A) the Secretary of Housing and Urban Development to foreclose a mortgage or deed of trust in any case in which the mortgage or deed of trust held by the Secretary is insured or was formerly insured under the National Housing Act and covers property, or combinations of property, consisting of five or more living units; or

"(B) the Secretary of Transportation to foreclose a mortgage on a vessel or vessels pursuant to the Ship Mortgage Act, 1920, as amended, held by said Secretary under the provisions of sections 1101-1110 or section 207 of the Merchant Marine Act, 1936, as amended; or".

SEC. 7. Commencing with fiscal year 1983, appropriation of funds to carry out the laws administered by the Federal Maritime Commission shall be subject to annual authorization.

SEC. 8. Funds are authorized to be appropriated in the amount of $11,650,000 for the use of the Federal Maritime Commission for the fiscal year 1983.

SEC. 9. Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883), is amended by adding the following new sentence at the end thereof: "For the purposes of this section, after December 31, 1983, or until such time as an incineration vessel has been constructed in the United States and documented as a vessel of the United States, whichever occurs later, the transportation of hazardous waste, as defined in section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6903(5)), from a point in the United States for the purpose of the incineration at sea of that waste shall be deemed to be transportation by water of merchandise between points in the United

States: *Provided, however,* That the provisions of this sentence shall not apply to such transportation when performed by an ocean incineration vessel, or a replacement to such vessel in case of maritime casualty owned by or under construction for a citizen of the United States on May 1, 1982. Such vessels shall meet all current Coast Guard and Environmental Protection Agency standards with respect to ocean incineration. The term 'citizen of the United States' means a corporation wholly owned by such a citizen as defined in sections 2(a) and 2(b) of the Shipping Act 1916 (46 U.S.C. 802 (a) and b)).".

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BAKER. I move to reconsider the vote by which the bill passed, Mr. President.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## WILLIAM R. COTTER FEDERAL BUILDING

The Senate proceeded to consider the bill (H.R. 4569) to designate the U.S. Post Office Building in Hartford, Conn., as the "William R. Cotter Federal Building".

Mr. WEICKER. Mr. President, Oliver Wendell Holmes, Jr., once said in speaking of his duty to his Nation that:

> ... the best service we can do for our country ... (is) to hammer out as compact and solid a piece of work as one can, to make it first rate, and to leave it unadvertised.

To the best of his ability this was the dictum that governed the performance of William R. Cotter, who until his death this past September, served as Congressman from the First District in Connecticut.

Bill Cotter was responsible for hammering out a good deal of solid legislation, which although first rate, was not pursued by Bill Cotter out of any desire for fame or glory on his part, but rather for the benefit of his constituents. Bill Cotter worked quietly, but efficiently, and his loss was mourned by not only those he represented, but more importantly by those who admired the way he got things done.

Mr. President, I have spoken before on the need, in this era of partisan political posturing, to commemorate those who were able to rise above the mean. Bill Cotter was such a man, and I am pleased that we now have the opportunity to memorialize him by passing H.R. 4569 a bill which would name the U.S. Post Office in Hartford, Conn., the William R. Cotter Federal Building.

I urge my colleagues to support this bill, and I would like to express my gratitude to Senator STEVENS for his efforts in this regard.

The bill was ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## NATIONAL RESPIRATORY THERAPY WEEK

The joint resolution (S.J. Res. 193) designating the week of November 7 through November 13, 1982, as "National Respiratory Therapy Week", was considered, ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, and the preamble, are as follows:

S.J. RES. 193

Whereas respiratory therapy is recognized as one of the most modern and progressive segments of the health care delivery system in the United States;

Whereas there are over eighty thousand respiratory therapy practitioners in the Nation who are making an important contribution to the delivery of quality health care;

Whereas respiratory therapists are involved with therapeutic and life-sustaining cardiopulmonary care to patients suffering from lung and associated heart disorders; and

Whereas in recent years the field of respiratory therapy has expanded to include postoperative pulmonary care, education, research, pulmonary testing, pulmonary rehabilitation, and neonatal-pediatric specialties: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the week of November 7 through November 13, 1982, is designated as "National Respiratory Therapy Week" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## CONSENT OF CONGRESS TO AN INTERSTATE COMPACT

The bill (H.R. 4903) granting the consent of the Congress to an interstate compact between the States of Mississippi and Louisiana establishing a commission to study the feasibility of rapid rail transit service between the two States, was considered, order to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## LUPUS AWARENESS WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 183) to authorize and request the President to issue a proclamation designating October 25, 1982, as "Lupus Awareness Week," which had been reported from the Committee on the Judiciary with amendments, as follows:

On page 2, line 2, strike "19", and insert "17";

On page 2, line 2, strike "25", and insert "23";

So as to make the joint resolution read:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the President is authorized and requested to issue a proclamation designating October 17 through October 23, 1982, as "Lupus Awareness Week", and calling upon the people of the United States to observe such week with appropriate ceremonies and activites.

Mr. SPECTER. Mr. President, today the Senate is considering Senate Joint Resolution 183, a joint resolution to designate October 17 through October 25, 1982, as "Lupus Awareness Week." I urge my colleagues to vote for passage of this resolution.

Most people are not familiar with lupus, neither the seriousness nor incidence of the disease. Unfortunately, it is little known mainly because even now its diagnosis is difficult and sometimes uncertain.

Lupus is classified as a rheumatic disease and is usually considered a chronic, systemic, inflammatory disease that affects the connective tissue common to all organs. The seriousness of lupus varies greatly from very mild to life threatening and depends on the parts of the body affected. It may affect only the skin in some people; in others it may affect virtually any organ in the body, including the skin, joints, kidneys, brains, lungs, heart, blood, and immune system. Lupus afflicts 50,000 new patients every year. The cause of the disease remains unknown.

The lack of awareness on the part of the general public and, in some cases, even on the part of the medical profession, creates a major problem as the disease is often misdiagnosed or diagnosed too late, when the damage to the patient is irreversible.

It is my sincere desire and belief that a proclamation such as this will greatly stimulate medical activity on lupus research and will help increase the Nation's consciousness of this debilitating disease.

The amendment were agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

"Joint resolution to authorize and request the President to issue a proclamation designating October 17 through October 23, 1982, as "Lupus Awareness Week".

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

## EXECUTIVE SESSION

Mr. BAKER. Mr. President, there are certain items on today's Executive Calendar that are cleared on this side, and I ask the minority leader if he is in a position to consider any or all of the following: item No. 798 under Federal Home Loan Bank Board; 799 under New Reports, Department of Commerce; 800 and 801 under Federal Council on the Aging; and three items, being 802, 803, and 804, on page 4 under the Judiciary.

Mr. ROBERT C. BYRD. Mr. President, the nominations have been cleared on this side.

Mr. BAKER. I thank the minority leader.

Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering the nominations.

There being no objection, the Senate proceeded to the consideration of executive business.

Mr. BAKER. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The nominations will be stated.

The nominations considered and confirmed en bloc are as follows:

FEDERAL HOME LOAN BANK BOARD

James Jay Jackson, of Texas, to be a Member of the Federal Home Loan Bank Board for the term of four years expiring June 30, 1986. (Reappointment)

[NEW REPORTS]

DEPARTMENT OF COMMERCE

Guy W. Fiske, of Virginia, to be Deputy Secretary of Commerce.

FEDERAL COUNCIL ON THE AGING

Adelaide Attard, of New York, to be a Member of the Federal Council on the Aging for a term expiring June 5, 1985. (Reappointment)

Charlotte W. Conable, of New York, to be a Member of the Federal Council on the Aging for a term expiring June 5, 1985. (Reappointment)

THE JUDICIARY

John P. Moore, of Colorado, to be United States District Judge for the District of Colorado.

Thomas Penfield Jackson, of the District of Columbia, to be United States District Judge for the District of Columbia.

Henry A. Mentz, Jr., of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

NOMINATION OF GUY W. FISKE, DEPUTY SECRETARY, DEPARTMENT OF COMMERCE

Mr. WARNER. Mr. President, Mr. Fiske will bring to this position many years of management skills from the private sector and his recent experience as Under Secretary of the Department of Energy, the Chief Operating Officer of that Department.

At Energy his management responsibilities included a budget of some $12 billion, 14,000 Government employees and 130,000 contractural employees. His management expertise and thorough working knowledge of the Department of Energy programs will be of great assistance to Secretary Baldrige; particularly at this time as the Senate is considering the President's proposed Department of Energy reorganization legislation. This bill will transfer a majority of Department of Energy programs to the Department of Commerce.

Prior to Government service with this administration, Mr. Fiske held high-level executive management positions with the General Electric Co., International Telephone & Telegraph Corp., and General Dynamics. His 30 years of top management and day-to-day operations of these domestic and international corporations make him uniquely well qualified for the position of Deputy Secretary of Commerce.

I commend Mr. Fiske for his willingness to set aside his distinguished career in the private sector to serve in these significant positions with the Federal Government. He is committed to the President's programs—and in making them work.

I urge prompt and positive action on his nomination in the U.S. Senate today.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. BAKER. Mr. President, I express my gratitude to the minority leader for his cooperation in managing a very respectably-sized legislative calendar and executive nominations.

Today has been a big day, in the sense that we have dealt with important legislation. I must say I am constrained to report that I believe the President of the United States will veto the bill we have just passed. If that occurs, as I expect, then it is my anticipation that the House of Representatives will transmit to us another supplemental appropriations bill on Monday.

Provision has been made, has it not, for the Senate to receive on Monday?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Chair.

In any event, it would not be possible for us to act until Tuesday. The Senate will convene at 11 o'clock on Tuesday, and Senators then should be on notice that I expect we will be called upon to deal with another supplemental appropriations bill on Tuesday, together with other matters which I described earlier in the day and on yesterday.

Mr. President, I have no further business to transact, and I yield now so that the Senator from California may seek the floor.

Mr. President, I ask unanimous consent, with the concurrence of the minority leader, that when the Senator from California completes his remarks, the Chair automatically place the Senate in recess, under the order previously entered, until 9:30 a.m. tomorrow, for the pro forma session, as provided for by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, there is no objection on this side.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BAKER. I thank all Senators, and I thank the Senator from California for permitting me to make that arrangement.

(The remarks of Mr. HAYAKAWA at this point in connection with the introduction of legislation are printed under Statements on Introduced Bills and Joint Resolutions.)

## RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the order previously entered, the Senate stands in recess.

Thereupon, at 6:02 p.m., the Senate recessed until tomorrow, Friday, June 25, 1982, at 9:30 a.m.

## CONFIRMATIONS

Executive nominations confirmed by the Senate June 24, 1982:

FEDERAL COUNCIL ON THE AGING

Adelaide Attard, of New York, to be a Member of the Federal Council on the Aging for a term expiring June 5, 1985.

Charlotte W. Conable, of New York, to be a Member of the Federal Council on the Aging for a term expiring June 5, 1985.

DEPARTMENT OF COMMERCE

Guy W. Fiske, of Virginia, to be Deputy Secretary of Commerce.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify

before any duly constituted committee of the Senate.

THE JUDICIARY

John P. Moore, of Colorado, to be U.S. district judge for the district of Colorado.

Thomas Penfield Jackson, of the District of Columbia, to be U.S. district judge for the District of Columbia.

Henry A. Mentz, Jr., of Louisiana, to be U.S. district judge for the eastern district of Louisiana.

FEDERAL HOME LOAN BANK BOARD

James Jay Jackson, of Texas, to be a member of the Federal Home Loan Bank Board for the term of 4 years expiring June 30, 1986.